



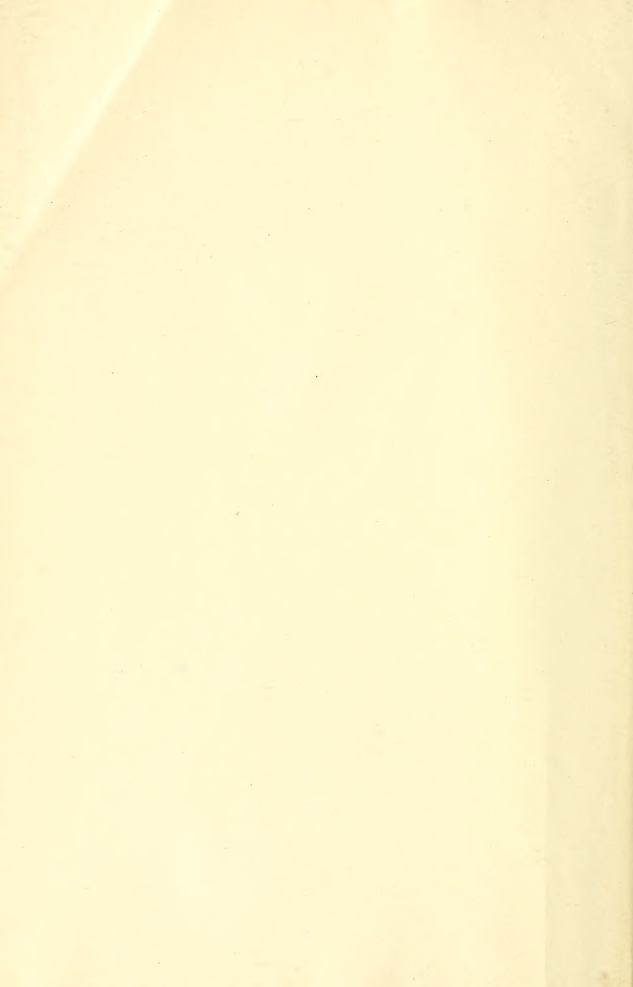












PROCEEDINGS OF THE NATIONAL  
TAX ASSOCIATION



PROCEEDINGS

OF THE

TWENTY-THIRD ANNUAL CONFERENCE

ON TAXATION

UNDER THE AUSPICES OF THE

National Tax Association

HELD AT KANSAS CITY

MISSOURI

OCTOBER 20-24, 1930

EDITED BY

W. G. QUERY

Secretary

254357  
4.5.31.

COLUMBIA, S. C.  
NATIONAL TAX ASSOCIATION

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NATIONAL TAX ASSOCIATION

# NATIONAL TAX ASSOCIATION

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1930-1931

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*School of Business, Columbia University, New York, N. Y.*

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*Chairman, South Carolina Tax Commission, Columbia, S. C.*

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195 Broadway, New York, N. Y.*

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## CERTIFICATE OF INCORPORATION OF NATIONAL TAX ASSOCIATION

No. 20264

This is to certify that we the undersigned, all being persons of full age and citizens of the United States and the majority being citizens of the District of Columbia, desiring to associate ourselves for scientific and educational purposes and to that end, to form a body politic and corporate, under the provisions of sub-chapter three of Chapter Eighteen of the Code of Law for the District of Columbia, approved March 3, 1901, and Acts of Congress amendatory thereto, do hereby make, sign and acknowledge this certificate in writing, stating as follows:

*First:* The name or title by which the association or corporation shall be known in law is NATIONAL TAX ASSOCIATION.

*Second:* The term for which the corporation is organized is perpetual.

*Third:* The particular business and objects of the corporation are as follows:

To educate and benefit its members and all others who may be interested in the subject of taxation and the subject of public finance, of which taxation forms a part, by promoting the scientific study thereof generally, by the encouragement of research, by collecting, preserving, and diffusing scientific information and knowledge relating thereto, by organizing conferences and bringing together for discussion public officials, taxpayers and their representatives, students, instructors in universities and colleges and others interested in the subjects of taxation and public finance, by publishing and distributing reports of conference proceedings and such other books, periodicals and publications as may be desirable and helpful for the accomplishment of the purposes of the corporation; by appointing committees for the investigation of problems in taxation and public finance; by formulating and announcing, through the deliberately expressed opinion of its conferences, the best informed economic thought and ripest administrative experience available for the guidance of public opinion, legislation, and administration, on questions relating to taxation and public finance; by acquiring, utilizing, applying and disposing of property and funds exclusively in establishing, maintaining, improving, and extending the benefits and usefulness of the corporation, through the accom-

plishment of its purposes, and by promoting better understanding of the common interests of national, state and local governments in the United States and elsewhere, in matters of taxation and public finance and interstate and international comity in taxation.

The promotion of the above declared business and objects shall at all times be carried on subject to the following conditions and limitations, by which the corporation and all who shall hereafter associate themselves with it, as members, as participants in its deliberations and activities and in its conferences or otherwise, shall be forever bound; that is to say:

The activities of the corporation shall be non-political and non-sectarian.

No part of the net income of the corporation shall at any time inure to the benefit of any officer or member of the corporation or of any individual or corporation whatsoever.

At any conference which the corporation may organize, members of the corporation shall not be entitled to vote, by reason of such membership, on any matter involving the official expression of the opinion of the conference on a question of taxation or public finance of general public interest, but the voting on such questions shall be vested in such persons in attendance as may be determined by the corporation and be expressed in such manner as may be prescribed by the conference when assembled.

At any such conference, the persons attending shall, by such attendance, be deemed to consent to the condition and limitation that the result of the vote upon a matter involving the official expression of the opinion of the conference on a question of taxation or public finance of general public interest shall not be announced or be given publicity in any report thereof issued by the corporation or be taken as having its endorsement, unless there shall have been full discussion thereof, at that or a prior conference and unless the vote shall represent the substantially unanimous opinion of the conference, which shall be deemed to be expressed by not less than a four-fifths vote.

*Fourth:* The number of the managers of the corporation, who shall be called the executive committee shall for the first year of its existence be sixteen.

Witness our hands this 6th day of January, A. D. 1930.

(S) THOMAS WALKER PAGE

(S) JOHN E. WALKER

(S) WILLIAM P. RICHARDS

(S) ROBERT J. EBY

(S) ALFRED E. HOLCOMB

DISTRICT OF COLUMBIA, SS:

I, Walter F. Studdiford, a Notary Public in and for the District of Columbia, do hereby certify that Thomas Walker Page, John E. Walker, William P. Richards, Robert J. Eby and Alfred E. Holcomb, parties to the annexed and foregoing certificate of incorporation, bearing date the 6th day of January, 1930, personally appeared before me in said District the said Thomas Walker Page, John E. Walker, William P. Richards, Robert J. Eby and Alfred E. Holcomb, being personally well known to me to be the persons who executed the said certificate of incorporation and severally acknowledged the same to be their act and deed.

Given under my hand and notarial seal this 6th day of January, A. D. 1930.

(S) WALTER F. STUDDIFORD,  
*Notary Public, D. C.*

(NOTARIAL SEAL)

OFFICE OF THE RECORDER OF DEEDS  
DISTRICT OF COLUMBIA

THIS IS TO CERTIFY that the foregoing is a true and verified copy of the Certificate of Incorporation of the *National Tax Association* and of the whole of said Certificate of Incorporation, as filed in this Office the 6th day of January, A. D. 1930.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of this Office this 6th day of January, A. D. 1930.

ARTHUR G. FROE,  
*Recorder of Deeds, D. C.*

(SEAL)

## BY-LAWS OF THE NATIONAL TAX ASSOCIATION

(As adopted January 6, 1930)

### ARTICLE I

#### MEMBERSHIP

SECTION 1. Any person shall be eligible to membership and may become a member, upon application in writing and payment of annual dues for the current year. Such application shall indicate sympathy with the objects and purposes of the association, as expressed in its certificate of incorporation and willingness to be bound by the conditions and limitations contained therein and in these by-laws. *Provided* that the present members of the National Tax Association, an unincorporated association, shall be members without further action on their part.

SECTION 2. Membership shall be continuing. The annual membership dues shall be five dollars, payable upon application for membership, covering the fiscal year of the association then current and annually thereafter, in advance, on the first day of the subsequent fiscal year.

In the discretion of the executive committee the annual dues may at any time be increased and the annual dues of residents of any foreign country may be fixed at an amount in excess of those of residents of the United States.

Any member who shall fail to pay his dues within six months from the date when payable shall be considered in arrears, and if such failure shall continue for a period of one year, he shall be dropped from membership, for non-payment of dues.

## ARTICLE II

### ANNUAL CONFERENCE

SECTION 1. An annual conference on taxation shall be held under the auspices of the association, at such time and place as the executive committee may determine. The annual conference shall be the means used by the association for carrying into practical effect its purpose to secure an expression of opinion that will formulate and announce the best informed economic thought and ripest administrative experience available for the correct guidance of public opinion and legislative and administrative action on all questions pertaining to taxation, and to interstate comity in taxation.

SECTION 2. The personnel of each annual conference shall be composed of delegates appointed by the governor or other chief executive of states, public officials having duties with respect to the investigation, enactment and administration of tax laws, instructors and students in universities and colleges, taxpayers and their representatives, and others interested in the subjects of taxation and public finance.

SECTION 3. The voting power of the conference upon an official expression of its opinion is limited, with the purpose of safeguarding the conference from the possibility of having its expression of opinion influenced by any class interest, or consideration for those who devote their time to the work or management of the association, or favor for those who contribute money to its support.

The voting power in each conference upon any question involving an expression of opinion of the conference on a question of taxation or public finance of general public interest shall be vested in the delegates in attendance appointed by the governor or other chief executive of states. In voting upon such questions each state shall have one vote, and in case of a division of opinion among the dele-



gates therefrom, the vote shall be divided, so as to give proportional weight, by approximate fractions, to the opinions of the respective delegates.

If the result of such vote shall not reflect substantial unanimity on the subject in question, no publication thereof shall be made and it shall not be considered as expressive of the opinion of the conference. Such unanimity shall be deemed expressed by a four-fifths vote.

Voting by proxy shall not be allowed.

No member of this association shall have the right to vote in any annual conference solely by virtue of such membership.

SECTION 4. One session of each annual conference, or so much of it as may be necessary, shall be devoted to the consideration of the report of the conference committee on resolutions and conclusions. The report of this committee, as adopted by the conference, shall be its official expression of opinion, and it shall not be held to have endorsed any other expression of opinion, by whomsoever made.

No resolution approving or opposing legislation shall be considered by the conference unless it has been discussed at a session of the conference at which it is proposed, or has been the subject of a report made thereon by some committee of the conference or of the corporation, or has been the subject of a resolution adopted by some previous conference.

SECTION 5. The temporary and permanent chairman, secretary, official stenographer, address of welcome and response to the same, meeting place, accommodations for delegates, all necessary preliminary details for each conference, and the program of papers and discussions, shall be arranged for the conference by the executive committee of the association. All other details of the organization and conduct of the conference shall be arranged by the delegates present in such manner as they may from time to time decide.

### ARTICLE III

#### ANNUAL AND SPECIAL MEETINGS OF THE ASSOCIATION

SECTION 1. The annual meeting of the association shall be held in connection with the annual conference, at such time as the executive committee may determine. Sixty days' notice shall be given to all members of the time and place at which such annual meeting is to be held, by publication in the official BULLETIN of the association or by mailing such notice to each member.

SECTION 2. Special meetings of the association may be held at any time and place, when called by the executive committee. At least thirty days' notice shall be given to all members of each special

meeting, by publication thereof in the official BULLETIN of the association or by mailing such notice to each member, which notice shall specify the purpose for which the meeting is called, and no business shall be transacted at such meeting, other than that specified in the notice.

SECTION 3. A majority of all members present at any annual or special meeting of the association shall constitute a quorum for the transaction of business, but such quorum shall at no time be less than fifteen, and whenever the attendance of members exceeds one hundred, twenty-five shall constitute a quorum.

## ARTICLE IV

### OFFICERS AND EXECUTIVE COMMITTEE

SECTION 1. The affairs of the association shall be administered by a president, a vice-president, a secretary, a treasurer and an executive committee, consisting of the above officers and the three ex-presidents who have last held office, who shall be members *ex-officio*, and nine elected members. The necessary number of the three last ex-Presidents of the National Tax Association, an unincorporated association, shall be members *ex-officio*, so long as necessary to make the number in that class three. The officers shall be elected annually by the members and, with the exception of the president, shall be eligible to re-election. They shall hold office until their successors are elected.

The elected members of the executive committee shall be divided into three classes of equal number, each class holding office for three years and until their successors have been elected, provided that at the first election held after the adoption of these by-laws, three classes shall be established, of three members each, to hold office for terms expiring at the time of the first annual meeting of the corporation for the election of officers and of the next two succeeding annual meetings respectively, and thereafter three members shall be elected at each annual election, for a term of three years, and also such additional members, if any, as may be necessary to fill vacancies, to hold office during the remainder of the terms of the members whose places they fill. No member shall be eligible for re-election to the committee to succeed himself, but this provision shall not be applicable to *ex-officio* membership therein.

Two persons residing in the Dominion of Canada may be elected annually to serve as honorary members of the executive committee.

A vacancy in any office or in the membership of the executive committee may be filled by the executive committee for the unexpired term.

The executive committee may appoint such other officers and

agents as it may deem appropriate to the purposes of the association, to serve during the pleasure of the committee.

## ARTICLE V

### DUTIES OF OFFICERS AND COMMITTEES

**SECTION 1.** The executive committee shall manage the affairs of the association, subject to the provisions of the certificate of incorporation and of these by-laws. All appropriations of the funds of the association must be authorized or approved by the executive committee. Meetings of the executive committee shall be held at such times as the committee may determine. At such meetings a majority of the committee shall constitute a quorum.

The executive committee shall have power to appoint standing or special committees and prescribe their duties.

The executive committee shall have full power and authority, in the interval between meetings of the association, to do all acts and perform all functions which the association itself might do or perform, except that it shall not have power to amend the certificate of incorporation or the by-laws.

The executive committee may authorize the president, or in his absence or inability to act, the vice-president, the secretary and the treasurer to exercise all the powers and functions of the committee, with respect to matters and things arising in the routine management of the association, requiring the formal action of the officers, during the intervals between the meetings of the committee.

**SECTION 2.** The president shall be the chief executive officer of the association and shall preside at the meetings of the association and of the executive committee, and shall perform such other duties as the executive committee shall prescribe.

In case of the absence or inability of the president, the duties of the office shall be performed by the vice-president, and in his absence, by such member of the executive committee as that committee may designate for the purpose.

**SECTION 3.** The secretary shall keep a record of the proceedings of all meetings of the association and of all other matters of which a record shall be ordered by the association.

He shall issue notices of all meetings of the association and shall perform such other duties as may from time to time be assigned him by the association or the executive committee.

**SECTION 4.** The treasurer shall keep a complete roll of the members. He shall have the care and custody of all funds and property of the association and shall deposit the funds of the association in such banks or depositories as the executive committee shall designate. He shall, under the direction of the executive committee,

disburse all moneys and sign all checks and orders for the payment of money. He shall, when authorized by the executive committee, execute the papers necessary for the transfer of any property or securities of the association. He shall perform all the acts incident to the position of treasurer and may, in the discretion of the executive committee, be required to give an appropriate bond, at the expense of the association.

His accounts shall be audited by a committee of the association or otherwise, as the association may prescribe, and he shall at the annual meeting make report of the financial transactions of the association for the past year.

## ARTICLE VI

### PROCEEDINGS AND PUBLICATIONS

SECTION 1. The association shall provide for the publication and distribution of the proceedings of the annual conference.

SECTION 2. The executive committee shall authorize the terms of sale or of distribution of all publications issued by the association.

## ARTICLE VII

### CONSTRUCTION

The word "state" whenever used in these by-laws shall be deemed to comprise state, territory, the District of Columbia, an insular or other possession of the United States or a place over which the United States exercises extra-territorial jurisdiction, and a Canadian province.

## ARTICLE VIII

### AMENDMENTS

SECTION 1. These by-laws may be amended at any annual or special meeting of the association by a two-thirds vote of all members present; provided, the full text of the proposed amendment shall have been submitted to the members, either by publication in the BULLETIN of the association or by mailing the same to each member at least thirty days prior to the meeting.

## FIRST SESSION

MONDAY, 8:00 P. M., OCTOBER 20, 1930

FRED R. FAIRCHILD, President of the National Tax Association, presiding.

PRESIDENT FAIRCHILD: Ladies and Gentlemen, as President of the National Tax Association it is my privilege now to call to order the Twenty-third National Tax Conference. For the sake of those who may not fully understand the organization of the National Tax Association and its relation to these annual conferences, I may perhaps be permitted to say that the National Tax Association and the National Tax Conference are two separate entities.

The business of the National Tax Association is to make the preliminary arrangement for the holding of a conference and to call the conference to order, and then leave the conference to elect its officers, adopt its rules of procedure, and conduct the program.

The first business before the conference now is the election of a chairman of the conference. Do I hear a motion?

WILLIAM BAILEY, Utah: Mr. Chairman, I move you that the President of the National Tax Association be made the chairman of this conference.

(Motion duly seconded)

MR. BAILEY: All in favor of that motion say aye.

(Ayes and noes)

MR. BAILEY: The ayes have it. Mr. Fairchild, you are our chairman.

CHAIRMAN FAIRCHILD: The next thing in order is the election of a secretary of the conference.

PHILIP ZOERCHER, Indiana: I now rise to nominate Mr. Query, secretary of the National Tax Association, to be the secretary of the conference.

(Nomination seconded)

CHAIRMAN FAIRCHILD: Those in favor of the election of Mr. Query as secretary of the conference, say aye.

CHAIRMAN FAIRCHILD: It is a vote.

The conference needs certain rules of procedure, and it has been customary for the Association to submit for the consideration of the

conference a certain set of rules, which have now, after many years of being followed uniformly, attained a considerable standing of tradition. I will ask the secretary to read the rules which were followed by the conference last year, and submit them for your consideration.

*SECRETARY QUERY: "Rules of Procedure.*—The provisions of the Constitution of the National Tax Association shall govern the conduct of this conference generally, and these rules of procedure shall be considered supplemental to, and subject to interpretation by such provisions.

*Program and Discussion.*—The program as printed and distributed is adopted and shall be followed, with such modifications as may be required, by reason of absences, vacancies or other causes.

The usual rules of parliamentary procedure shall control. Each speaker shall be limited to twenty minutes for the presentation of a formal paper. He shall be warned two minutes before the expiration of such period. The time of such speaker may be extended by unanimous consent of those present.

In general discussion each speaker shall be limited to seven minutes, and such time shall not be extended. No person shall speak more than once during the same period of discussion until others desiring to speak have been given opportunity to do so.

*Voting Power.*—The voting power in this conference, upon any question involving an official expression of the opinion of the conference, shall be vested in delegates in attendance at the time the ballot is taken, appointed by the governor or other appropriate executive officer of the states and territories of the United States, the District of Columbia, and the Canadian Provinces, not exceeding three votes for any one state, territory, district or province; persons actively identified with and duly appointed delegates by universities and colleges or institutions for higher education not exceeding one vote for each institution; and members of state associations of certified public accountants, duly appointed delegates by such association, not exceeding one vote for each such association. No person shall have more than one vote by reason of appointment from more than one source.

Voting by proxy shall not be allowed. The voting shall be by ayes and nays, unless a roll-call be demanded by at least three delegates from three different states. On all questions other than those involving an official expression of the opinion of the conference, the voting shall be by all in attendance.

The receipt of reports made to this conference by committees of the National Tax Association shall not be considered as expressing the opinion of the conference on the subject treated.

*Committees.*—The following committees shall be appointed:

(a) A committee of three on credentials, to be appointed by the chairman, who shall designate the chairman of such committee.

(b) A committee on resolutions, composed of the chairman, to be appointed by the chairman of the conference, and one person from each state, territory, district or province, selected from among the delegates; but in case of the non-attendance of any such, any person from such locality may be appointed. The chairman of this committee shall appoint its secretary and arrange for its organization.

*Resolutions.*—All resolutions involving an expression of opinion of the conference shall be read to the conference before submission to the committee, and shall be immediately referred, without debate."

CHAIRMAN FAIRCHILD: You have heard the rules read; what is your pleasure?

MARK GRAVES (New York): I move their adoption.

(Motion duly seconded)

CHAIRMAN FAIRCHILD: Is there any discussion?

(Call for the question)

CHAIRMAN FAIRCHILD: If not, those in favor say aye.

(Ayes and noes)

CHAIRMAN FAIRCHILD: It is a vote.

I have now the great pleasure in introducing the Lieutenant Governor of Missouri, Honorable Edward H. Winter.

LIEUTENANT GOVERNOR EDWARD H. WINTER, Missouri: Mr. Chairman, Governor Reed, Ladies and Gentlemen: In behalf of the Governor of the state of Missouri, it gives me a great deal of pleasure to welcome this organization to the state of Missouri. We think, of course, it is one of the great states of the Union. It has contributed largely to the national welfare. I recall at this time that Missouri has contributed to the nation some of its great leaders. I am thinking of Carl Schurz, Thomas H. Benton, in recent years Speaker Champ Clark, and still more recently Fighting Jim Reed.

It is a wonderful thing for men and women who are similarly minded to get together and talk over their common problems. I take it that in this gathering everybody is interested in the tax problem. All of you speak the tax language. It is a wonderfully fine thing for people who speak and understand the same language.

I can recall an incident in my career, a few years ago, when that was not true. During the World's Fair in St. Louis, in 1904, the Federal Government sent me over there to check in the foreign goods that were sent there for exhibition, to watch it during the fair, and check it out again at the close of the fair. One of the

exhibitors whom I had under my charge was a then well known Chinese statesman. He did not understand my language, nor did I understand his. For that reason it was necessary for me to attend to a great deal of his business while he was an exhibitor at that fair. Toward the close of the fair he felt that it was necessary for him to show some appreciation of the service which I had rendered him. He decided that he could do that by giving me a dinner, so he invited my secretary and me to a dinner. We wondered just what it would be, whether we would be obliged to eat it with chop-sticks, or just how we would fare, but much to our surprise, when we arrived at the home of our host we found an elegantly prepared American meal. There were the usual cocktails—most of them fruit cocktails—and then came the meat course, and we thought it was an exceptionally sweet and delicious meat course, and we discussed just what kind of meat we were eating. I insisted it was duck, and my secretary was just as insistent that it was goose. We could not converse with our host, but I finally hit upon this plan of determining the question. I reached over, touched my host on the shoulder, pointed down to the meat platter, and I said, "quack, quack." I thought he could understand that language. Apparently he did. After a moment or two he rubbed his hand over his forehead, and then he lifted both hands and said, "Aw, no, no, no; bow wow."

I take it, of course, that in this gathering everybody will want to speak the language of the tax problem, and it is well that we do.

I am reminded this evening that this is a rapidly changing world. Social and economic conditions are changing very rapidly. I am of the opinion that generally government is keeping pace with the changing conditions, at least so far as Missouri is concerned—probably progressive Kansas keeps up with its tax problems—but only in one instance generally is government not keeping pace with the times, and that is the matter of the fair and correct solution of the tax problem.

Just at the present time our own state is making an extensive study of its major problems. We find in Missouri that we have some tremendous problems in dealing with our eleemosynary institutions. We have some great problems in dealing with the penal institutions. The matter of educating the boys and girls of our state is a tremendous problem. And yet we find that if the tax problem could be fairly and equitably solved all of the other problems of government would very largely solve themselves. Therefore I take a great deal of pleasure in speaking for the Governor of the State in welcoming this organization to Missouri for the study of one of the great problems of government.

We find in this state our tax system is not just exactly right. It is not like the old colored man over in the capitol of the state



when he went over the other day to draw his warrant for his services as janitor in the State House. I came along just after him, and drew my warrant. We went over to the State Treasurer to cash our warrants. When he pushed his voucher through the window, the teller counted out 20, 40, 60, 70, 75 dollars. The old uncle said, "No, sir, no sir, boss, you cannot give me that kind of money." "Why," the teller said, "this is perfectly good money." He said, "Yes, yes, boss, I know that, but I want my money in one-dollar bills." And so the teller took his currency back and he counted out seventy-five one-dollar bills. And then the old uncle took them up and began to count them out very slowly. The teller reminded him of the fact that another state employee was just back of him, with a state warrant, and wanted some service and the old uncle insisted that he was going to count his money, so as to make sure that it was absolutely right. He counted through from one to seventy-five, and when he had finished the teller said, "Well, uncle, it is all right, isn't it?" He said, "Yes, yes, boss, it's all right, but it jes' is, and no more."

One of the problems that we find in our state that is not exactly right is the tax problem, and we feel that if this problem could once be fairly and equitably solved, it would solve all of the other problems of the state. And, I am welcoming you, welcoming this organization, to the great state of Missouri, and I would remind you of the fact that the solution of this problem must be fair, and it must be just. I have always held that all citizens ought to bear some of the burdens of government. That situation is not true at the present time in our state. I think that a man who contributes something toward the maintenance of his government thinks just a little bit more of that government than he would think of it did he not contribute anything to it. So I trust that out of this conference will come some ideas that will help to solve the ever-troublesome tax problem in this state and in all of the other commonwealths of the nation.

I want you to know that while you are guests of the commonwealth of Missouri we are turning the state over to you. I rather suspect that there is a representative of the city here. I think he is going to guarantee you immunity from their gangsters over here. If you should happen to find yourselves in some difficulties coming under the law, I would have you know that once in a while the governor leaves the state. He is leaving it today, I understand, and you have only to notify me by telegraph or telephone that you are having some difficulty in Kansas City, where most of the people are peaceable and honorable and constructive, and I will issue a parole to you if you will only advise me that you are members of this conference. I had thought a little while ago, Mr. Chairman, it might be well to sign some blank paroles and let the conference use them as it may see fit.

But, we are happy to have you here; we are proud to have you as guests of the state and as guests of one of the great cities of the state and nation. We want you to have a happy time, we want you to have a profitable time, and I am sure that Kansas City will do everything possible to make your visit here a pleasant one and a profitable one. To that end the state government also is very greatly interested. I want to bid you a most hearty welcome to the state of Missouri. We want you to stay as long as you like. We trust that your visit here eventually may bring some of these ladies and gentlemen to the state of Missouri as residents of one of the great commonwealths of the Union.

CHAIRMAN FAIRCHILD: Thank you, Governor Winter, for your courteous welcome.

Now, friends, you are no doubt aware of the sudden illness which has only two days ago stricken Mayor Smith of Kansas City. I am sure that you will all be glad to learn that the latest reports this evening are that he is doing unusually well and is apparently on the road to rapid recovery.

In his behalf the welcome from Kansas City will be extended to us by city counsellor, Honorable George H. Kingsley. I have now great pleasure in introducing Mr. Kingsley.

GEORGE H. KINGSLEY (Missouri): Mr. Chairman, I want to say to the delegates, in the first place, that they do not need any parole. I am City Counsellor. It is under my auspices that all warrants are issued in Kansas City; so just come around and see me if you get in any trouble.

In the absence of our mayor, Mr. Bryce B. Smith, it becomes my very pleasant duty to welcome you in his behalf and in behalf of the city to Kansas City. We are mighty glad to have you here. We want you to have a good time. Enjoy yourselves while you are here; and we hope you will like our city. We think we have one of the most beautiful cities in America, with our fine boulevards, parks and splendid homes. We think we have one of the finest places in the world to live in, with our churches and our fine schools and our broad and generous hospitality, and we know that we have one of America's future great cities.

We are convinced that our city will very shortly begin a rapid growth which will make it one of the great centers of population in this country. We are proud of our city, and we are proud to welcome an organization like the National Tax Association. We are mighty proud to have such an organization meet here in Kansas City. Any body of men that will give its time and its energy and its efforts to the study of a subject as dry and as difficult and yet as important as taxation deserves a cordial welcome from any community.

Taxes are something that everybody is interested in and nobody knows anything about, except those like yourselves, who make a special study of the subject.

I was interested in reading your program—and by the way I know you have a long program and lots of work before you, and you do not want very much of a speech from me—I was interested in a quotation from my old friend Adam Smith. Of course, it has been a long time since I read anything of his, but I used to study Adam Smith in college, and I see he says the important thing about taxes is to have them certain. I think the trouble right now, when we are paying taxes, is that they are too doggone certain. But, Adam Smith, you know, held to the doctrine of *laissez faire*, let alone in industry and in business.

Now, we have traveled a long road in the last one hundred and fifty years, since Adam Smith's day. Today, government with not only its hands on everybody's pocket, not overlooking the hip pocket, but with its finger in everybody's business, it may be a question whether one solution of our tax problem may not lie there; but, of course, it is not for me to discuss the wisdom or unwisdom of government interference and regulation of private business. That is a matter for discussion, a matter that takes time and deliberation.

But I say again, we are mighty glad to have you here, and if you do not do anything more than show the ordinary citizen how he can make out an income-tax return, you will have done a whole lot by meeting here in Kansas City.

CHAIRMAN FAIRCHILD: Thank you, Mr. Kingsley. To respond to these courteous addresses of welcome, I have the great honor of now introducing Governor Clyde M. Reed of Kansas.

GOVERNOR CLYDE M. REED (Kansas): Mr. Chairman, and distinguished guests on the platform, and those working men and women from over the United States who have come here to talk about that thing which is their work at home, the question of administering a taxation system. I noticed Governor Winter, when he came to tell what a great state Missouri was, the first time he mentioned it, he sort of hesitated. It just occurred to me that whether Missouri was a great state or not, it laid close to or against a really great state. I think that gave the Governor pause for just a moment. And then he went on to tell about Missouri's great men. They are something like Missouri's great cities. He mentioned Jim Reed, and others. You know Jim Reed, as well as the distinguished City Counsellor of Kansas City, came here from republican states, that may have gone democratic after they got here. If you cannot tell for sure about that, you know Missouri is in a peculiar situation; it has two great cities on its borders. The size

and importance and business of St. Louis comes from Illinois, western Kentucky and Arkansas; and Kansas City lives on Kansas. I don't know what Missouri would do if it had a city of its own that it had to support. I could not say how big a city it would be, nor how great a state it would show up under those circumstances; but as long as it has Kansas to live on, and Arkansas, the cities of Missouri have done first rate—thank you. You know we in Kansas are just across the line. I have a shorter solution of this possible fixing problem, with respect to what might happen to you. The state line of Kansas is only two miles across here, and I will give you my telephone number, Mr. President.

You know, taxation is an awfully dry subject. That is the reason you are meeting in Kansas City. I am in some doubt as to whether or not you could meet in St. Louis with that kind of subject.

My friends, seriously, I am not going to try to carry coals to New Castle by discussing with this body any new ideas on taxation. I am such a novice in matters of that kind, and you are so expert upon such matters, that it would be very presumptuous of me, indeed, to do a thing like that. I do believe that you have as interesting, worthwhile, and perhaps, it seems at times, hopeless, jobs as there are in government.

Taxes, you know, are something like the weather. Everybody talks about them but nobody does anything about them. And that brings me back to a remark that Governor Winter made about the citizen who thought more of his state because he paid some taxes to it. I wonder if he has ever been around the county treasurer's office at tax-paying time and heard the remarks that were made by the taxpayers. I am not quite so certain that taxation deepens or inculcates a love for the state. But yet it is a necessary sort of thing. As I said, taxes are like the weather; everybody talks about it but nobody does anything about it. I wonder what you would do if you could. Primarily you are administrative officers, and the laws which govern taxation in your state and in every state are enacted by the legislature, under the constitution, and yet if some day this body, which is the most representative body of its kind that gathers together in this great nation of ours, should resolve itself into a mock legislature and undertake to adopt a model—I would not say an ideal tax system—I wonder if you would be able to agree among yourselves; and if you did that sort of thing, what kind of a tax system would we have. That to me would be a most interesting thing, Mr. President, and a session that would be well worth coming a long distance to attend.

Only in recent years have I given much thought to the tax question, and the further into it I have gone, the less certain I am about any opinion that I previously entertained, or any one that I have now. The best that I could do, as Governor of the State—

and we have talked taxes in Kansas in the last two or three years more than any other single thing—is to sit still and try to look semi-human in intelligence while you folks are talking over the taxation question.

Take Missouri, for example; in 15 years our taxes have increased 200 per cent. The taxes collected in Kansas today are 300 per cent more than they were 15 years ago, and in that I do not include the federal taxes collected through the internal revenue collector, nor the gasoline tax collected for road purposes. If you include them, the taxes today are 400 per cent more than they were 15 years ago, substantially, and in that time the wealth of my state has increased 40 per cent. That is why the tax problem presses heavily upon the nation as a whole and upon many states, particularly the agricultural states, with a special hardship. The wealth of the nation as a whole has increased 80 per cent in the last 18 years, and in that time the taxes have more than tripled; and in the agricultural states where the rate of increase in wealth has been only about half of the average for the country as a whole, taxes have increased just as much relatively as in those industrial states that have shown the great increase of wealth. That is why out here in these states we call the agricultural states, and that do represent the highest development of the oldest industry in the world, taxation bears with such tremendous force upon citizens and upon property, because they have spent money just as rapidly as anybody else. We voted bonds just as freely for school buildings and community buildings and paved streets, and all of those things that go into this thing that we call the standard of living, which is just as significant and just as pronounced in its advance for government as it has been for the individual; and you cannot increase your taxes 400 per cent on an increase in wealth of 40 per cent without feeling some special form of hardship. We feel that especially in Kansas. I thank Governor Winter for what he said about Kansas being a progressive state. I sometimes think it is, and then when I get to thinking about taxes I know it is not, and that we are as backward a state in our taxation system as it is possible to find in the United States. We are the most conservative, hard-shell state when it comes to modernizing and revising our taxation methods and plans and policies that you could find anywhere.

We still have that uniform and equal clause in our constitution, and we cannot get it out.

I do not think I need to say anything further to this body to show how backward Kansas is in the matter of taxation. We in Kansas have clung, as some of the other states have done, to that old theory of the general property tax. Our people have been the slowest to depart from that. But, in this period that I have men-

tioned there have come more rapid and far-reaching economic changes than in any other previous one hundred years of our history. We have had not only the automobile, which required roads, but we have had the telephone and radio and all of these modern improvements. We have had the most swiftly advancing changes or developments of our civilization, and yet we have had these great far-reaching financial organizations developed that have created new forms of property, in some cases far exceeding the value of property of the old kind; and yet we lay the burden of taxation upon these forms of property that are still in sight and cannot escape; and we in Kansas are among the worst offenders among all the states in clinging to that old system.

You know that the general property tax, as we administer it, is a crime against the man who owns property, the property and everybody else. We made a little progress in Kansas. Kansas is talking about taxes now, I would be tempted to say, intelligently, but I would not want to go that far. The most I would care to say now is that it is talking about taxes, and that here and there are some who show signs of having an intelligent understanding of this problem that we call taxation, that now occupies so much of our attention.

Our last legislature submitted an amendment to our constitution for a graduated income tax, and there are a number of us who have put up sort of an organization, backed by a little money which we put up ourselves, to see if we could not get the amendment over; and I have quite reasonable hopes for it at the election two weeks from tomorrow—just reasonable.

You know we are one of the states that tried the intangible tax law, under which the banks would not have to pay any taxes. I would think working with taxes would take all the hopefulness out of us, but over in Kansas our tax attorneys were hopeful of reaching an agreement with the attorneys of the Bankers' Association. Being a newspaper man, like Governor Winter, and having grown up in a newspaper office, I get a little bit skeptical at times, and I told them I believed that could not be done. But, I do compliment Mr. Cooke upon the ownership by the American Bankers' Association of two committees of Congress, the bankers' committee of both the Senate and House. I went down to Washington, as Governor of the State, to take a first-hand look at that congressional situation, to see whether or not it was possible to get an amendment to Section 5219, of which you may have heard, and after discussing the matter with both the Senate and House committees on banking and currency, I came home and called a special session of the legislature, and we have repealed the intangible tax law. That is how much faith I had in being able to get a real modification of Section 5219 by Congress.

Congress is a great body that occasionally does something that it ought to do, but up to this time the spirit of modifying Section 5219, so as to take the hand of the Federal Government off the state's in a place where it should never have been put, has not got far enough in Congress to really amount to anything.

The government of the United States has no business saying to a state how it should tax national banks further than to say that you cannot tax national banks at a higher rate or at a different rate than you tax similar institutions created by the state. That is a simple elementary proposition. And, it is a singular thing indeed that men, citizens of a state, whether it be Kansas or Pennsylvania or North Carolina, coming out of a state and imbued with state ideas, go to Washington, live in that atmosphere for a few years, and then all of a sudden become national citizens and forget that the state has just as much right to their allegiance as does the national government; and upon this question of national banks they are no more a national institution, except so far as their charter is concerned, than a state bank or a state trust company. They are formed by local people, with local money, doing business in the locality. They are just as much a part of the state, except for their charter, as any state bank or state institution that exists anywhere in any of the forty-eight states of this country; and for the Congress of the United States to say that a state cannot tax a national bank because it holds a charter from the national government, on the same basis that it taxes its own institutions, is to me almost unpatriotic; and I don't think the American Bankers' Association ought to be proud of its ownership of Congress in that respect.

I feel fairly strongly upon that subject, because a number of the states, including Kansas, made an earnest effort—I am not sure that it was a wise effort—but we made an earnest effort to handle this part of the taxation scheme through what we call the intangible tax system. It was the self-consciousness of the national banks in Kansas that defeated the experiment that we were making with the intangible tax law. If the American Bankers' Association wants to be patriotic, if it wants to do its duty to the country, it ought to be willing to submit to fair tax legislation, and to let go its grip, of which it boasts, upon the committees of Congress that deal with this subject. That is a shameful condition, one that Congress should resent, and the American Bankers' Association ought not be a party to.

In getting along with our taxing question in Kansas we appointed a tax code commission, not a new or novel thing at all. I think you will meet all the members of that commission here. I urged each member of that commission that did work for a year and more, and very earnest study, to come down to this meeting. I am going to read you just a few of their statements and conclu-

sions, not because they are novel but because in a sense it is a summing-up of the taxation problem, whether it be in Kansas or some other place.

"Kansas is not so different from other states in having a tax problem of such growing seriousness that it is now widely regarded as a major problem of the state.

"We find other states perplexed by difficulties similar to or identical with our own, in providing funds to carry on the increasingly complex functions of government without seriously burdening the citizen, hampering his activities and taking from him the fruits of his enterprise and labor.

"This is the tax problem. The background and the causes of the growing unrest over rising taxation require a brief statement.

"The World War cannot be overlooked as an element in cost of government, in the debt incurred, the unsettling of prices, costs and values, and the disturbance for a number of years of the economic balance. This factor is gradually diminishing in importance and in a few years will have largely spent its force."

I wish to interpolate, however, that the habit of voting bonds, which was encouraged by war conditions, will not have spent its force in the next few years. We have the habit; also we have the bonds to pay, with interest. Now to continue with some further observations from the code commission's report.

"But, the tax problem antedates the war, which only aggravated its normal effects. Rising taxes have been a matter of concern for many years, and the causes are to be looked for in the normal development of industrial economic and social life.

"It is the boast of the American people that its economic progress during the last generation is unparalleled by any other time and any other people. This economic evaluation, which has created in many aspects a new world, is directly related to taxation in two ways:

"(1) A vast increase, relatively, in the number of wage-earning and salaried persons in contrast with former independent individual small capitalists.

"(2) An equally amazing corresponding of forms of representative wealth known as intangibles, which are not yet effectively taxed, relatively to the increase in the value of tangibles, such as land, buildings and simpler forms of wealth on which state and local tax systems have hitherto been based, and to which they have looked for the support of government.

"The deep and growing complaint of high taxes is largely due to the fact that the tax base has not been extended cor-



respondingly with the economic development mentioned. The same persons, the same property, bear the weight of the new taxes called for by the larger functions of government due to the great development of the new economic structure. Moreover, the larger demands for the state, and for all the subdivisions, makes inefficient administration of tax laws intolerable.

"Services rendered by government have necessarily been greatly extended in recent years, and those groups have benefited in common with others, yet are not so situated that the tax system calls upon them for sharing public costs."

Services rendered by the government have been greatly broadened in their scope. That has required more money. The government has but one source of revenue, and that is taxation.

From the bottom of my heart, with all of the earnestness at my command, I say that you gentlemen are struggling with the most important single problem in American life, and that is the question of taxation, the question of raising the money, of devising ways and means to raise the money necessary for these governmental activities, measured as nearly as can be by that final acid test of the justness of a tax, the ability of property and persons to pay. There is no more important duty that confronts the government than apportioning out this burden of its cost, not on a voluntary basis of contribution by citizenship but upon a forced basis. There is no greater duty concerning the government than to make these forced contributions lie as equitably as may be, and to distribute the burden as fairly as may be, between classes of citizens and classes of property, in proportion to their ability to pay. The rapid growth of taxes has greatly disturbed the whole situation. It needs to be readjusted and realized; and out of the deliberations here, and those that are to come in the years that follow this, I earnestly hope that there may be worked out, not a perfect system of taxation—there is no such thing as that—but the nearest approach to a fair and equitable system that the human mind is capable of forming; that you gentlemen, with the earnestness at your command and out of your ability and experience may make this contribution to the welfare of your states and to the country. There is no higher duty that anybody in public office and public service may render. Thank you very much.

CHAIRMAN FAIRCHILD: One time in the history of this association its name was, as perhaps some of you recall, the International Tax Association, and although our name was long since changed, our membership and interest and influence still extends to our neighbor across the northern boundary. It seems fitting, therefore, that the cordial welcome of Governor Winter and Mr. Kingsley

should elicit some response from someone representing the great Dominion of Canada. All of you know well our honorary member, Mr. J. T. White, of Toronto. You will be glad to know that he has promised me to say a few words at this time. Mr. White is of a modest and retiring nature, and when I assembled the speakers to come on the platform I was unable to find him, but I hope that he is somewhere in our midst now and will now come forward—Mr. J. T. White.

J. T. WHITE (Province of Ontario): Mr. Chairman, Your Excellencies, Counsellor, and Ladies and Gentlemen: I can hardly express my feelings of gratitude to the chairman for giving me the opportunity of replying on behalf of our small body of representatives to this conference from the Dominion of Canada. We do not feel that we are strangers in this gathering, or in this country, nor even in this state, sir, and I must hasten to assure His Excellency that certain of his remarks, I am sure, were not intended for the representatives from Canada, but I assure His Excellency that we do not anticipate requiring his services along the line indicated in the way of parole.

We are, however, greatly interested in attending these conferences, and knowing that we can gain some useful information. Our problems, as some of you know, are much the same as your problems here, because we have followed, in many respects, lines of development that were followed by the United States.

Our country was settled by the early pioneers who had to clear the land, and build up gradually a position of comfort, and those who did not enjoy the position of comfort kept pushing on into the frontiers and extending the frontiers, pushing forward, and that is why you people got out here into Missouri and Kansas, because of the pioneering spirit; and we have followed the same line of development in Canada. I must admit, though, that you probably have gone one step farther than we have in that direction. We are still pushing northward but we have not extended out into the ocean to any great extent as yet. You have gone out sixteen miles whereas the boundary formerly was, I think, three miles. Nevertheless, we are following along that line and we may eventually find it necessary to extend our boundaries out into the oceans to the east and west and north.

We have followed your example in a great many matters. One of them I might mention is the matter of protective tariff; and, judging from the campaign we had a short time ago in Canada, we have not yet reached the limit of what we are going to do in the way of protection—not by a long shot. I do not want to give you any unpleasant news but I would not be surprised if your sales of one thousand millions of dollars a year to Canada—close to one thousand millions last year—might be materially cut, as we have

found our sales to the United States being cut. But, that is a matter to which each of us must look for ourselves and let the devil look after the other fellow. I might say we followed your custom to a certain extent and up to a certain point in prohibition, but we have sort of side-stepped. I don't know whether you are going to follow us or not, but we have broken away from that lead apparently. Occasionally there are matters in which you have followed our example; I might mention going into the war. You were unavoidably delayed, but when you did get in you did a good job of it. I doubt very much if we Canadians could have won the war if we had not had your help, but with your help we seemed to get along very well.

I regret that I do not feel confident to do justice to the occasion, on behalf of the delegates whom I represent, but I want you to be assured, sir, that we appreciate your very kind words of welcome.

CHAIRMAN FAIRCHILD: You will recall that one of the joyful incidents of each of these annual conferences is standing for an hour or two on the courthouse steps or the windy roof of the hotel while the official stenographer arranges us in a harmonious group. The elimination of this ordeal is something which has proved beyond the powers of your present chairman, but I am able to announce that the Kansas City official photographer has consented to do his deadly work here, and we will now recognize him and give him the floor. I believe it requires that our distinguished guests take seats in the front row in order that they may appear in the picture.

CHAIRMAN FAIRCHILD (continuing): The rules of the conference require that the chairman appoint a committee on resolutions and a committee on credentials. The Chair will announce those committees at a subsequent session. I think there is no other business. We are now prepared to proceed with the regular program of the conference. The first address will be on the subject "The Essentials to Effective Tax Administration," and I call upon the Honorable Edward B. Morgan, chairman of the State Tax Commission of Colorado—Mr. Morgan.

## THE ESSENTIALS OF EFFECTIVE TAX ADMINISTRATION

E. B. MORGAN

Chairman, Colorado Tax Commission

Not long ago there appeared in an obscure Arkansas newspaper an article in one paragraph which was, to my mind, a full answer to all the ills and ailments of our myriad mass of taxation problems. The paragraph read somewhat as follows:

"The only solution of the taxation problem is to pack up and go back to the jungle."

And yet in face of that which I consider excellent advice, we seem doomed to continue to talk and to write and argue and discuss and theorize on this subject which comes more nearly to every man, woman and child in the nation than almost anything but food and yet about which there is so little knowledge.

Now it is a sure thing that we cannot go back to the jungle. There are no longer any jungles, and it follows that we must continue to search out and grope for other solutions or near solutions concerning which we are again meeting here tonight for the twenty-third consecutive year.

The subject assigned me tonight is one which might be treated at interminable length owing to the many differing tax systems and laws and conditions in our country, to say nothing of the views of many differing minds. What might be an essential of administration in one state would perhaps not be in another. It may be possible, however, to point out briefly, for later discussion, a few which may apply to all or nearly all communities.

Take, for instance, the possibility of standardization. Standardization is the order of the day. In big business — even in small business — in manufacture, in transportation and in banking and financing, in literature and even in art we find a tendency to have most lines of human endeavor follow certain fixed lines and standards, some of which are based on actual trials and experiences, and some on ideals and theories.

Tax administration should be a problem in economics, but alas and alack! it is more often a political question and, under our system of government, probably always will be. How often do we hear that if public affairs could be carried on as private business is carried on, how happy we should be. But it cannot be, and I doubt if it ever will be. They are in so many essentials as different and as far apart as the proverbial east and west, and I doubt if the "twain will ever meet."

It would seem possible, however, to suggest certain essentials in tax administration that might be more generally adopted and standardized than at present in the several hundreds of units functioning in this country, and the mere suggestion of the subject might perhaps give rise to discussions that would lead to the examination of what, if any, standards can be established which might be determined to be essential and by the establishment of which more effective tax administration could be had.

Some years ago our National Tax Association gave to the world a model tax system. It was adopted after long and careful study and consideration by some of our outstanding authorities on taxa-

tion. So far as I know, this system has never been adopted *in toto* by any political division, but undoubtedly many of its best features have been incorporated here and there, and from time to time more will be. So, to that extent, the Association has done a valuable work. May it not be therefore possible for this Association, by similar discussion and consideration, to establish that certain essentials are desirable for proper administration of a tax office, be it assessors', treasurers', or tax commission offices.

This is no time or place to go into any details other than by way of suggestion in a more general way. And for examples and illustrations I must necessarily be somewhat confined to the one state with which I am most familiar and where essentials that might be ideal would probably differ greatly from what would be necessary or desirable in other states.

Let us confine ourselves to the one form of office with which we are most familiar, to wit: the tax commission, or the body under whatever other name it may carry, which functions under more or less limitations as the centralized control of tax matters in each state.

Next to standardization, perhaps centralization is one of the most prevalent tendencies of the times. A tax commission should be supreme in its realm. There should be nothing above it but the courts, and nothing below it but the agencies which are completely under its control. State boards of equalization or other powers of whatever name should not be there, ready to pounce upon its work, and county boards of equalization and county and township assessors should be completely under its direction and control with laws to compel and enforce its authority. Authority must rest somewhere, and where it is scattered and dissipated it leads to chaos. One cannot serve two masters. It may sound despotic and rather fantastic when we think of the local pride which prevents such a consummation, but I would have local assessors appointed by the tax commission and responsible to it, as one of the first essentials of good administration. I have heard other opinions that assessors should be appointed by boards of county commissioners. With this I do not agree. Some one has said: "There is no more reason for electing a tax assessor than for electing a policeman."

Some states, I believe, have departments of finance, or bodies under some such name. If there is a concentration of authority in such, well and good. But in most states, like mine for instance, there are about as many bodies engaged in garnering the sheaves as there are in spending the money. The inheritance tax is administered by one body, the gasoline tax by another, the automobile taxes and licenses by another, and so on. There is no way of telling where the money comes from, or how much. This, I claim, ought not to be so.

Some states have superimposed over the tax commission a body known sometimes as the state board of equalization. This is a superfluous and troublesome provision. Any tax commission working under effective laws will find that its principal job is to equalize—to equalize between counties, between corporations, and between individuals. Why, if it is necessary to equalize that which has been equalized, should it be necessary to equalize to the Nth degree? Usually these bodies are made up of the executive officers of the state, or of those who have had no part in making the actual assessments, and they usually make a sad mess of it.

One essential of effective tax administration is that some board, or body, or individual should have some effective check on expenditures, based upon law, of course, but with enough flexibility so that the element of plain common sense can sometimes be injected. Struggle as you will against excessive taxation, devise and plan ways and means for new sources of revenue, there will never be enough to go around until you curtail the spending of money, much of which is spent lavishly and wastefully. Here a properly equipped tax commission can be of the greatest benefit.

As an illustration, may I be pardoned if I cite a law we have in Colorado known as the "Limit of Levy Law"? We have some 2,000 school districts each a law unto itself, each administered by three trustees, many of whom have no business experience. There is a tremendous waste of money in this system where there is no effective central control. Of the tax dollar which we collect 54 cents goes to educational purposes. The school trustees may increase their levy five per cent above the levy of the year before. If their needs are not met by that, they may apply to the tax commission for a further increase, and the tax commission may, in turn, authorize that further increase but not to exceed 5 mills. That seems on its face to be a pretty good series of checks. But there are several flies in the ointment. We are directed by law to make an investigation of the needs of each district applying, and there are 300 or 400 of them. We have no facilities for making any real investigations other than perhaps a dozen or more, and if we decide to deny an application, the law provides that a special election may be called and an increase authorized over our heads by a three-fourths vote. And this is nearly always done. So with little or no investigation we can do nothing else but grant the application, saving a little here and there where the application is for more than we can legally allow. But even so, we sometimes save very substantial amounts to the taxpayers in spite of themselves. A few years ago our largest district, comprising the city of Denver, which has about one-third of the wealth and population of the state, applied to us for an increased levy that would raise about one-half million dollars for a new schoolhouse which they did not

want to raise by a bond issue. We could, in this case, make a thorough investigation as we and the property were right there on the ground. We did so, and decided they were going too strong, and declined to grant the application as made. This gave rise to a terrible upheaval on the part of the proponents and particularly of the superintendent who, being something of a politician himself, began to bombard our office with pressure to prevent our decision being against them. First the press took it up, then many of the civic organizations and clubs, and last but not least, the so-called parent-teachers organizations. I did not know before that there were so many parents and teachers in the world. The matter was finally compromised by our granting half the application, and a quarter of a million dollars with other funds scraped up here and there built a fine schoolhouse as originally planned, and the tax-payers were saved a quarter of a million dollars. What I am trying to put over is that one of the essentials of any effective tax administration is to have some one somewhere to save a dollar here and there. We can always find enough people to spend the money. And with my apologies to budget systems and other like methods, I am of the opinion that no one is in so good a position to do this as a well-equipped tax commission.

While we are culling out some of the essentials, let us not overlook the matter of the personnel of the commission itself. This might be made a whole topic. No tax administration, or any other administration for that matter, can be effective without the proper administrators. A poor law properly administered is better than a good law ineffectively and badly administered. Here is where the ability, the honesty, the firmness and the common sense of the commissioners come in. I sometimes think that tax commissioners are born, not made. I have known tax commissioners who served for years and still were lacking in all the essentials that are necessary for good administration. Others I have known who, with only a few years' experience, have become ideal officials. Just what the qualities are that are necessary is difficult to say in a short talk like this, but they are obvious to most of us. At least some knowledge of the history and principles of taxation is necessary—a complete severance from any political influence or bias, an infinite amount of patience and courage, an understanding of human nature that makes it possible to attract and not repel those with whom he comes in contact—from the lowliest taxpayer to the highest official of the greatest corporation. He should be strong-willed but not hard-boiled, and respected but not necessarily popular. If any man seeks popularity or to retain what he has, let him avoid all contact with a tax office.

These and scores of others might be enumerated as desirable qualities for an ideal tax commissioner. But how shall all this per-

fection be found? Shall he be elected or appointed, and if the latter, by whom? How long shall he serve? To whom shall he be responsible—to the people who may have elected him—to those who have appointed him or to the legislature? These are the questions that are easy to propound but hard to answer. I am opposed to the election of tax commissioners. If they are to be appointed, the choice usually falls upon the governor. But may I make a suggestion? Why should not the appointment come from the Supreme Court? The office is a semi-judicial one and the Supreme Court is usually supposed to be free from political and other entanglements.

And when elected or appointed, how long shall he serve? Certainly not for so short a term that he has just begun to learn his job when he has to busy himself for a reappointment or reelection. And if for a longer term, how long? It may not be known to many of you that the Colorado Tax Commission is under Civil Service and is in for life. I believe we are the only Commission in the country so favored. It would be a delicate question for me to handle, for being prejudiced in favor of Civil Service might seem to be selfish. And yet I know that, generally speaking, I am on the fence about it. I see places where it works well, and I see places where it does not. But if Civil Service is to prevail, who is there in a state administration who should more properly come under its protection? It would mean at least one thing, and that is that the proposed commissioner must start out with some qualifications for a position which he may not have under election or appointment.

From what class of men may tax commissioners be drawn? Sometimes from ex-assessors who have made good and become interested in taxation. A lawyer usually makes a good tax official if he has had any experience in the management of property and the ways of the business world, and every tax commission should have at least one lawyer on it, for it is usually the clearing house of legal problems for all the assessors and treasurers in the state. Students who have been drawn into the study of taxation through their course in political economy might well consider adopting taxation as a profession. I have spoken of the protection of the Civil Service as being one essential which might be considered, but where is one to go to acquire the preparation for the examination which would precede the appointment? I believe that some colleges and universities have established courses in taxation in connection with their political economy work, but certainly not many. Why should there not be opportunities to make a study of this subject in a set, formal way—one that might perhaps lead to a degree? We have handles attached to the names of an ever-growing diversity of occupations such as public accountants, chiro-



practors, Christian scientists and others — why not John Smith, Bachelor of Taxation, or some such designation from an accredited institute of learning?

And that leads to another thought along the same line. Every tax system and every tax administration needs an overhauling once in a while. The local authorities get in a rut; they have no way of knowing what new ideas and advancements have been made in other states, and they are too close home to realize any defects which might be remedied. This work can best be done by outsiders qualified to view pictures as a whole as well as in detail. More and more we hear of surveys being made and there is an ever-growing list of experts whose work in this line is very helpful and illuminating, and admired by all concerned. No one can read the reports which have come from Wisconsin, California, Colorado and elsewhere without realizing to what extent the study of taxation and its problems is expanding.

There are so many minor essentials of effective tax administration that are obvious, that it would be superfluous to even mention them. An efficient, alert and well-informed office force, headed by a secretary who can be a good contact man between the commission and the public is one. Investigators or deputy field men who can keep the commission in close touch with what is going on in each county assessor's office, and who know values and varying conditions, is another. Of course, modern, up-to-date office equipment of labor-saving devices is, in these days, essential and should gradually be standardized with other states, as I mentioned in the beginning.

In closing, may I speak of at least two duties which are required of our Colorado Tax Commission which seem to me to be valuable and essential and which may not be in vogue elsewhere. Some member of the Commission is required to personally visit at least one-half of the counties of the state annually, and every county in the state at least once in two years. This requirement, if not done in a perfunctory way, gives us an opportunity of investigating on the ground the work and methods of all county taxing officials, and to keep in close touch with values and conditions in each county.

And another duty is to call an annual meeting of all assessors at which, in a three-day session, there are informal discussions and determinations upon all questions which may arise relating to the current year's assessments. These meetings are particularly valuable in election years when there are a number of new men just taking hold of jobs about which they may know little or nothing. And this meeting or conference is followed up by district meetings at which more local and specific problems are taken up.

But I must close before you get more tired than perhaps you

already are, over the reiteration of things which may already have been said many times. I must not put you in the condition of the preacher's wife who remarked at the supper table, Sunday night, that she was very tired. "You shouldn't be," said her husband, "you have not preached two sermons today." "No," she replied, "but I have listened to them."

CHAIRMAN FAIRCHILD: Among those who have been invited to lead the discussion of Mr. Morgan's paper is Mr. Morrissett of Virginia.

C. H. MORRISSETT (Virginia): Mr. President, Ladies and Gentlemen: The day is all spent. Bearing this in mind, it is not my purpose to consume much time in executing my assignment. Moreover, I have just been released from a sentence of 34 hours on the road, and many of you have traveled long distances. The essentials of effective tax administration—that is a star to which we may proudly hitch our wagons. With most of what my friend Mr. Morgan said, I agree. I disagree with very little of it.

May we not start off with the proposition that tax laws must be reasonable. May we not say that is the first essential of efficient tax administration or effective tax administration. Every tax administrator knows that unreasonable laws cannot be effectively administered. By unreasonable laws we mean those that are unconscionable, laws that are confiscatory, palpably unjust laws, laws impressed with too much of the class spirit, laws that are discriminatory. You must have reasonable tax laws before you can hope for effective administration.

Assuming that we have reasonable tax laws, may we not say that the next essential is a fair measure at least of public cooperation. You cannot expect public cooperation unless the laws are supported by the public conscience. If you have laws that appeal to the public or to a large part of the public as just and fair, then you may expect public cooperation, which I have said is perhaps the second essential.

To get that public cooperation the tax administrator might well attempt to be a publicist, a good advertiser of his system that he is administering.

Assuming that we have reasonable laws—and that is a powerful assumption in many of our states, because the unreasonable laws are now the greatest obstacle to effective tax administration in this country—assuming that we have this great gift, and at least a fair amount of public cooperation, that brings us to the third essential, which is that the tax administrator, in whatever capacity serving—and he may be serving in any number of capacities—must be a man of character. That was touched on by my friend Mr. Morgan when he said that the tax commissioner should be able to command

respect, but not necessarily popularity. He should be a man of character. That is very important. But, character is not enough. He must have equipment, and right there, if we were to discuss all of the essentials of the administrator's equipment, it would detain us too long. This requirement necessarily varies according to what the administrator is supposed to do, and we all know that the powers and duties of tax administrators do not come out of their brains, but these powers and duties are fixed by laws and by the constitutions in some instances. We must say that the tax administrator must be qualified to do that which he is supposed to do. The bigger the job the greater the qualifications necessary. Where there is no vision, the people perish; and the tax administrator holding a responsible position must be capable of vision, that is to say, he must be able to see; he must be able to see what he is attempting to do; he must be able to ascertain the facts and he must be able to meet those facts.

Then we may say that the organization of the tax administration system must not be such as to violate every rule of business and common sense, as Mr. Morgan has said tax administration will always be controlled to some extent by political considerations. That is our system of democratic government. You cannot get away from it unless you abolish the system of government under which we are operating. The organization then must be a workable piece of machinery.

One of the best things that Mr. Morgan said was that the personnel is far more important than the form of organization.

With the suggestion that the Supreme Court be allowed to appoint tax administrators, I disagree, because I feel that in matters of policy we should not get too far away from the people, that the governor is the man who ought to appoint the tax administrator, and I am referring now to the head taxing authorities, not necessarily to the local tax authorities. They must be appointed or elected locally. We disagree with election by the people, but it will be a long time before we can get away from it. We can work away from it.

I am sure that you have enjoyed Mr. Morgan's paper and I wish to congratulate him thereon. I thank you.

CHAIRMAN FAIRCHILD: The discussion will be continued by Mr. Townsend of West Virginia.

(No response)

CHAIRMAN FAIRCHILD: Mr. Townsend apparently is not here, and I will therefore call next upon Mr. Fischer.

EARL L. FISCHER (Oregon): Mr. Chairman, Ladies and Gentlemen: I apologize for entering into this discussion after the subject

has been so fully and ably discussed by Mr. Morgan, but the matter is of the greatest importance. It is one in which the Oregon commission is most seriously interested at this time, because we are attempting the state-wide supervision of equalization and of local assessors. Our investigations so far clearly reveal the usual glaring inequalities resulting from undervaluation of certain properties and classes of property. Those under-assessments have been of long standing, and they are looked upon by the beneficiaries as vested rights. We are aware that equity demands a prompt and complete adjustment. But, we are also aware of the difficulty of finding improvements to put into effect in major tax reform in advance of popular favor. Many worthy efforts have been defeated by an indifferent and misinformed public. The entire subject of taxation is offensive to most people. There is a popular tendency to oppose all material changes in the established practices of taxation. The people work themselves into a fine frenzy over low taxes and high taxes, but all the while they give second attention to the more vital and fundamental question of fair taxes and unfair taxes.

I assume that effective tax administration represents equitable taxation; and the thing I have in mind is to emphasize the thought of Mr. Morgan when he said that there should be a closer contact between the administration and the public, one which will promote a more friendly and reasonable attitude toward the raising of public revenues. It seems to me there should be some successful means of appeal to the people in the interest of equity and fairness; and I am wondering if the important essentials of effective administration should not include some kind of an official educational program. At least we have come to that conclusion in Oregon.

We cannot get away from the fact that public sentiment is supreme. Not until the people are more inclined to lend their honest and careful consideration to tax questions may we expect satisfactory results.

I have a firm conviction that mankind is ordinarily honest, but to those of you who have never served the public as a tax official, I would repeat this little advice: If your peace of mind and hope of salvation depend upon your retaining an unfaltering and child-like faith in the proposition that man expects at most no more than an even break with his fellow men, then never permit yourselves to be connected in any manner with the administration of a tax law. I thank you.

CHAIRMAN FAIRCHILD: I call next upon Mr. Stewart of Montana.

(No response)

CHAIRMAN FAIRCHILD: Mr. Stewart apparently is not in the room. I will then call upon Mr. Baer of South Dakota.

(No response)

CHAIRMAN FAIRCHILD: In view of the lateness of the hour, and the very important subject of public expenditures which is still on the program, it would appear to the Chair that it would be well to terminate here the discussion of this subject and proceed at once to Doctor Johnson's paper. Unless there is a suggestion of a different course the chair will so proceed. I wonder if you will permit me first to make certain announcements, which I should like to place before you at once.

The committee on resolutions, according to our custom, consists of one member from each state. The chair will announce the chairman of that committee at a subsequent session; but in the meantime I strongly urge each state delegation to hold a meeting at the very earliest opportunity, elect their representative and inform the secretary of the delegates so chosen. It seems that much would be gained if we could at the outset adopt the policy of commencing our sessions promptly. I admit with shame that this first session was not so started, and I accept responsibility therefor. Nevertheless, I do feel inclined to lay it down as the rule of this conference that our sessions, morning, afternoon and evening, shall start at the hour announced. We have been much disturbed in past conferences by long delays in starting sessions. It is embarrassing to the speakers, finally bringing the crowd together and just going well at about the time adjournment was forced upon us. So, I hope I can call upon your assistance and cooperation to keep our program moving steadily as per schedule. We have a long program, crowded with interesting matters, and only thus can we proceed with satisfaction.

I call your attention especially to the special program of entertainments, which is available, and will be distributed, and among these, especially to the banquet on Wednesday evening. This is our second attempt at an innovation which was very successfully started last year at Saranac. Conditions here are somewhat different. There we were all gathered in a resort hotel, on the American plan. Here the banquet must be provided by the hotel to those who signify their intention to attend by purchasing tickets therefor; and it is very important that those of you who expect to attend—and I hope that includes the entire delegation—will purchase your tickets as promptly as possible. They are obtainable at the registration desk.

Let me finally urge all who have not yet registered to do so at the very first opportunity.

It now gives me pleasure to call upon Doctor Milbank Johnson,

chairman of the Board of Directors of the California Taxpayers' Association, to address us on a subject which underlies all taxation, namely, "Public Expenditures"—Doctor Johnson.

## PUBLIC EXPENDITURES

MILBANK JOHNSON

Chairman of the Board of Directors,  
California Taxpayers' Association

No problem is of more serious import in the fiscal policies of a government than that of public expenditures. The disbursement of public moneys is, in a last analysis, the kernel of our tax problems. How to raise and how to expend public money arouses prolonged discussion and agitation over assessments, tax bases, the incidence of taxation and the shifting of tax burdens. Large expenditures are continually being made for tax investigating commissions to devise ways and means of plucking the goose with the least amount of squawk.

### EXPENDITURE CONTROL

To control public expenditures is, however, the first essential toward the solution of the tax problem. Various plans for expenditure control have been discussed in the past from the floor of our many conferences. Political subdivisions of the states have experimented with these plans. However, the trend of state and local expenditures throughout the nation continues upward.

Tax and debt limitations placed by law have been successfully circumvented. Central control of local expenditures by the states presents a ramification into new problems and is open to criticism from the standpoint of business and political expediency.

Control of expenditures through the reorganization and centralization of state government has been a failure because local governmental structures have been ignored. This particular control method could operate more effectively if county, municipal and district governments were reorganized and centralized, in keeping with the principles which obtain in state administrative reorganization.

County government is still the "dark continent of American politics." Conditions in Chicago and other great municipalities still tend to prove the truth of James Bryce's statement, "The government of cities is the one conspicuous failure of the United States."

Our experimentation with budgets proves that their greatest value is in guiding expenditures. Unless there is both a desire and deter-

mination to live within the budget, it cannot adequately control expenditures. The budget gives opportunity for economy, but it cannot compel it. If citizens and officials are extravagant, no possible budget system can be devised which will adequately protect taxpayers.

The chief contribution which has been made by the standardization of accounting in an attempt to control expenditures is the clear evidence presented both of the source and the disposition of the revenue. Standardization has brought order, system and efficiency into governmental accounting.

All of these attempts at control have contributed something toward a solution of our problem. They have advanced us considerably in our struggle to increase the efficiency of government and to promote economy in public expenditures. However, not any one nor all of them together points the way to a really adequate and effective control of public expenditures.

#### COST OF GOVERNMENT

The National Industrial Conference Board reports that the total annual cost of government in the United States, covering the aggregate expenditure of federal, state and local governmental authorities, is approximately \$12,200,000,000, as compared with \$2,919,000,000 in 1913. This means a per-capita expenditure today of approximately \$103, as compared with one of \$92 in 1923.

The increase in total governmental expenditures since 1923 has been due primarily to increases in the budgets of the state and local governments. State governments are spending 34 per cent more now than they did in 1923, while local governments are spending 26 per cent more now than they did in 1923. The federal government's expenditures have increased only about 5 per cent in this period.

The net indebtedness of the forty-eight state governments in 1928 was \$1,585,000,000, or \$13.40 per capita, as compared with a per-capita debt of \$4.40 in 1917. During 1928 twenty-seven states were able to decrease their indebtedness, but the aggregate increase in the net debt of the states during the year was \$76,400,000.

State and local governments have been increasing their expenditures during the last decade at the rate of about half a billion dollars a year. The bonded indebtedness of state and local governments has been increasing at the rate of one and one-half billion dollars a year.

This heavy tax burden is becoming an unbearable load to the taxpayer. The increase in public expenditures has been out of all proportion to the increases in population, assessed valuation and wealth. Taxpayers are seriously questioning whether government should rightly cost one-sixth of the total annual income of our nation.

## JUGGLING TAX BURDENS

During the past quarter of a century, as government costs have increased, our public officials have clamored for new sources of revenue, for increased tax levies. Tax commissions have been appointed for the sole purpose either of providing new sources of revenue or of effecting a sort of reshuffling of the tax burden. We will never solve our problem by using those methods. These commissions have not taken into account the factors and conditions which cause the tax burden. They fail to consider the structure, functions and costs of government. The states are annually spending approximately \$500,000 in an endeavor to solve their tax problems and still these commissions are seldom permitted to include in their investigations, public expenditures, government organization or government services.

The juggling of tax burdens, reassessments and the shifting of tax bases will never bring tax relief. At best it is merely the old game of robbing Peter to pay Paul. Would it not be a wiser and more productive use of all the time, money and energy now spent in devising additional and unique ways of collecting taxes, if the tax-investigating commissions were to devote a portion of their energies to keeping down public expenditures?

## WASTE IN GOVERNMENT

One of America's eminent political scientists, William Bennett Munro of Harvard University, says that forty cents out of every tax dollar spent in the United States is wasted. Now if this 40 per cent waste could be saved, without impairing the efficiency of government in the least, we would have gone far toward controlling expenditures and bringing tax relief. Archaic systems under which our local governments operate cause tremendous wastes in administrative costs.

Of the total payments of the state government of the forty-eight states in 1928, 64 per cent went for operation and maintenance of the general departments; 0.5 per cent for operation and maintenance of public service enterprises; 4.6 per cent for interest on debt, and 30.9 per cent for outlays for permanent improvements.

Of the payments for operation and maintenance of general departments of the state governments, 40 per cent went for education; 16.9 per cent for highways; 16.7 per cent for charities, hospitals and corrections; 8.1 per cent for general government; 5.8 per cent for protection to person and property; 5.5 per cent for development and conservation of natural resources; 2.4 per cent for health and sanitation; 0.3 per cent for recreation; and 4.3 per cent for miscellaneous, the latter including pensions paid to war veterans by states giving such aid.



The outlay payments for permanent improvements were principally for highways, constituting 78.5 per cent of the total outlays. The next in importance were the outlay payments for charities, hospitals and corrections, amounting to \$45,026,146, and education, amounting to \$40,700,437. In addition the forty-eight states appropriated from state revenues to their minor civil divisions for education the sum of \$315,000,000.

#### THE RAISON D'ETRE

The primary responsibility for the rapid rise in the cost of state and local governments lies with the public, which demands more and more service from its government. This is especially true in education and highway construction.

The people, by initiative, referendum and constitutional amendment, are continually expanding the services of government and consequently of public expenditures. Public expenditures cannot be cut by the use of budgets and similar forms of expenditure regulation so long as the people insist upon increasing the services of government.

In the state of California we have a state budget which, during the last biennium, amounted to approximately \$245,000,000. Our state budget is segregated into three parts, general, educational and highway. The general budget, which called for an expenditure of approximately \$59,000,000, is the only portion of the budget which is under the control of the governor and the legislature. Constitutional provisions determine the educational budget of approximately \$79,000,000 and the highway budget of \$106,000,000.

The people of California have so tied the hands of the Governor and the Legislature that they control only 24 per cent of the total budget. It is practically impossible to reduce the size of 76 per cent of our budget by economies in administration because of constitutional provisions.

This is perhaps typical of the condition that exists throughout our land. It is probably due to the ignorance of the average citizen concerning the problems of taxation.

#### LOOSE THINKING ON TAXATION

We have too much loose thinking on tax questions. The public mind is in a condition of murkiness on the problem. Millions of people are under the impression and sincerely believe that a tax stays wherever you put it. They believe that if you tax the rich, the rich pay the tax. They do not see where the tax finally rests. They seem to believe that when railroads are taxed, the owners of the roads pay for the tax out of their own pockets. They do not appreciate the fact that railroad owners only pay the taxes in the first instance and then collect every dollar of them from the pas-

sengers and the shippers. They fail to realize that taxes affect the cost of living. They do not seem to know that there is no such thing as a non-taxpayer outside of the prisons or poorhouses.

We would have a tax-conscious public if we could make everyone who smokes realize that his smoking is really taxpaying, for at least half the cost of tobacco is made up of contributions to Uncle Sam's purse. Nine-tenths of the extravagance of government is due to the delusion that the people do not have to pay the bill.

#### PUBLIC APATHY

A general condition of apathy exists in our country with regard to all governmental problems, an unwillingness to be bothered with the question of their solution. Voters are ignorant of what government is doing. People do not want to be troubled with these problems. At tax time they rave and rant about the size of their tax bills, but when you suggest that they do something about them, they reply, "Why bother? It's too much trouble and you never get anywhere."

The trouble with us is that we have attained too much political welfare in this country. If we trace the history of citizen participation in government in the United States, we find that the quality of our citizenship reaches its highest peak in times of great stress and of storm. In periods of struggle for religious and civil liberty, the right of suffrage, national independence, freedom from oppression and in our battle for fundamental constitutional rights, the political interest of our people was intense. They felt a deep responsibility for the problems of government. Today all that we have sought as a people has been accomplished. Our civil liberties are protected. We have a large amount of social legislation, a great public school system, free higher education, an efficient postal service, the rural free delivery, air mail, highways linking the nation from the Atlantic to the Pacific, modern systems of sanitation and protection, huge areas devoted to parks and playgrounds. What more can the citizen demand of his government?

More and more burdens and responsibilities are annually being placed on government agencies. Less and less are the people depending on themselves and their personal initiative. The taxpayer is more heavily weighted each year, and to force him to carry these steadily increasing burdens is a costly business.

Until Mr. Average Citizen is more fully awake to the consciousness of how much all of these things are costing him, he will be lax in demanding an honest, efficient and economical government.

#### TAX SHOE PINCHING

The great mass of people must be made to see clearly the present trend of taxation. There must be publicity in the matter of public

expenditures. There must be devised an effective method of securing an intelligent understanding regarding what a community desires and what it can afford to spend collectively out of its limited economic resources.

The tax shoe is beginning to pinch. Taxes upon thousands of acres of land and millions of lots have become delinquent. The real estate men of the nation, who have promoted, aided and encouraged every possible improvement of a public character that has been proposed, are now sitting on the mourners' bench decrying the existing conditions.

#### THE ROOT OF THE PROBLEM

Having killed the goose that laid the golden egg, they are now seeking to shift the burden of taxation elsewhere, instead of coming to the root of the problem—the size of expenditures. They forget the warning of Alexander Hamilton that a scrupulous care of public expenditures underlies the foundation of honest and efficient government and that a disregard of this has scattered distress and want, caused rebellions and even led to the collapse of great nations.

There will be no effective control of public expenditures until we reawaken the interest of the citizen in his government. We must build up a civic consciousness which will create an effective and articulate public opinion with regard to the services, functions and costs of government.

We hear much of a sweeping crime wave, of general lawlessness, of juvenile delinquency, etc. There is no especial crime wave, no great increase in juvenile delinquency, but there is an utterly selfish disregard of the rights of others, there is a low standard of individual responsibility, of individual integrity.

Contractors, to make a few dollars for themselves, circulate petitions for entirely unnecessary public works, which the befuddled public can ill afford. Merchants charge excessive prices for their wares, if counties, cities or the state are the purchasers, apparently believing that public money is no one's money and, therefore, to be spent extravagantly and without due returns.

Land sold for government purposes is usually appraised at a sum far in excess of that which the private purchaser would have to pay.

Public officials seem prone to think that the public treasuries are fair game for raiding. As no one seems definitely responsible for these abuses, the practice has grown until even the people who bear the injury wink at it.

These are dishonest practices, dishonest now as they always were. Those who follow these practices are cheaters.

Why should our government, either local, state or national, be given the worst of anything?

Where five million men were willing to face the onslaught of the enemy a few years back, it now seems as if all of us who were then willing to die for our country are willing to cheat her to the best of our powers.

RESPONSIBILITY OURS

Can we not develop a desire among our people to deal more justly and decently with their country? Can we not develop a spirit of civic righteousness, or is there no such thing? Men like you and me are responsible for the answer.

CHAIRMAN FAIRCHILD: The two subjects of the evening are now open for general discussion. Does anybody feel inclined to continue the discussion? I recognize the hour is late.

MR. FRANKLIN S. EDMONDS (Pennsylvania): Before the meeting adjourns, may I announce there will be a meeting of the committee on uniformity and reciprocity upon the adjournment of this session, in the left-hand corner of this room.

CHAIRMAN FAIRCHILD: You all heard Senator Edmonds' announcement. Any other announcement?

DOUGLAS SUTHERLAND (Illinois): I would like to say just a word of deep appreciation of Doctor Johnson's paper. It seems to me that he has dealt with the subject in fine fashion. He has pointed out what seems to me the fundamental of our tax problem, and at the same time he has ended with a fundamental note, which indicates perhaps the need for a broader education among the people themselves as to their individual responsibility.

With reference to the paper that was read before Doctor Johnson's, on the suggestion that the Supreme Court appoint tax commissioners, I firmly believe in an appointive tax commission, preferably under some sort of civil service requirement, the ability to discharge being untrammelled, but the ability to appoint being only from the selective list. It seems to me it is a mistake to bring the court into the appointing of other officials. My observation of that is, instead of elevating the appointment and taking it out of politics, it tends to bring the court into politics still further than elective tribunals are at the present time.

CHAIRMAN FAIRCHILD: Any other discussion?

(No response)

(Motion to adjourn)

CHAIRMAN FAIRCHILD: It is moved and seconded that we adjourn.

(Ayes and noes)

(Adjournment)

## SECOND SESSION

TUESDAY MORNING, OCTOBER 21, 1930

CHAIRMAN FAIRCHILD: Will somebody pass the word into the lobby that we are in session?

It is very gratifying to see that so many of you have taken seriously my suggestion that the sessions start on time. With such cooperation as is indicated this morning, I am very sure we can put this program through as it should be.

It is rather superfluous for me to introduce to you our vice-president, Clarence Smith of Kansas, but that is my present privilege and duty, and I hereby take great pleasure in turning over to Mr. Smith the conduct of the session this morning.

(MR. CLARENCE SMITH, vice-president of the National Tax Association, presiding.)

CHAIRMAN SMITH: Mr. President, Ladies and Gentlemen of the conference, it is a pleasure to preside over the deliberations of this session, and I feel complimented in being called upon to do so by our president.

The program this morning relates to taxation matters in Missouri and Kansas, and the subjects to be discussed are not entirely peculiar to these two states but are of general concern to all states, and no doubt will prove interesting to all present. We are going to be pressed a little for time to complete the program this morning, and in order to expedite matters I desire to call your attention to the rules of the conference read last evening, in so far as they relate to the time allotted to the speakers. Without any further introductory remarks I shall call on the first speaker on the program, Mr. J. T. Waddill, chairman of the State Tax Commission of Missouri.

### ADMINISTRATION OF MISSOURI TAX LAWS

J. T. WADDILL

Chairman, State Tax Commission of Missouri

For the purpose of carrying out the provisions of the taxing laws of Missouri, the state is divided into one hundred and fourteen counties and the city of St. Louis. Each county is divided into municipal townships, the cities into wards. Twenty-four of the counties have adopted township organization. The counties are

further subdivided into road and school districts. Each elects its own officials to represent it in the administration of its business affairs.

#### ASSESSMENT OF REAL AND PERSONAL PROPERTY

We have four assessing bodies, viz: county and township assessors, State Tax Commission, State Board of Equalization and county boards of equalization.

Each county, not under township organization, elects an assessor for a term of four years, who has authority to appoint deputies to assist in making his assessment.

Counties under township organization elect one assessor for each township for a term of two years. They are all paid for their services on a fee basis, one-half by the county and one-half by the state. County and township assessors make the original assessment of all real and personal property, except certain property of public utilities assessed by the State Tax Commission, to which I shall later refer.

Assessments are based on the ownership of property as of June 1st of each year, with taxes payable one year from the following December. The law requires that property subject to taxation be assessed at its true value in money. Our constitution provides that taxes must be uniform on all classes of property within the taxing district.

Under our constitution and laws the following subjects are exempt from taxation:

All property in this state belonging to the United States and the state of Missouri; all property belonging to any county, city or other municipal corporation; all public health squares and lots kept open for health or ornament; lands granted by the United States or this state to any county, city or town, village or township for the purpose of education, until disposed of by sale or lease; lots in incorporated cities and towns, or within one mile of the limits of any such city or town, to the extent of one acre, and lots one mile or more distant from such cities or towns to the extent of five acres, with the buildings thereon, when same are used exclusively for religious worship, for schools or for purposes purely charitable, shall be exempted from taxation for state, county or local purposes.

As soon as the assessors have completed their assessment of real and personal property, the value, by classes, is certified to the State Tax Commission, on or before February the 20th following, who then proceed to equalize the value, by classes, among the several counties of the state. As soon as the commission has completed its equalization, it certifies its findings to the State Board of Equalization, a constitutional body composed of the following state officers: Governor, Secretary of State, State Auditor, State Treasurer

and Attorney General, for final equalization by that body. The value, by classes, for each county is then certified to the several county boards of equalization. It is then the duty of the county boards to equalize the value of the various parcels of property among the individual owners within the county. When the county board has completed its work and adjourned, the value as fixed is final. Provided, however, any taxpayer who may be aggrieved, may file application with the tax commission for re-assessment of his property. Upon receipt of such application the commission shall, after proper notice, make a re-assessment of the property complained of. Or if the commission is of the opinion that any property is illegally assessed or omitted from the tax rolls it shall, after giving notice to the owners, assess the same, subject to the approval of the state board.

#### ASSESSMENT OF PUBLIC UTILITIES

For the purpose of assessment, the property of public utilities is divided into two classes, distributable and local. The distributable property consists of that which is used in the business as a going concern, except land and buildings. Local property consists of material and supplies on hand, not built into the system, money or other credits, tools and appliances and real estate and buildings. The tax commission assesses the distributable property; local assessors, the local property. Authority for such division is found in Section 13002 and 13027, R. S. Mo. 1919, relating to the assessment of railroads. Authority for the assessment of other public utilities is based, principally, on the same law. Other sections provide that such utilities shall be assessed and taxed in like manner and to the same extent as railroad property is now assessed and taxed.

Steam railroads, telegraph and telephone companies, toll bridges, electrical companies and electric transmission lines, and oil pipe lines are assessed in part by the tax commission and in part by local assessors. All the property of street railways is assessed by the commission. All the property of gas, water and ice companies, and water and gas pipe lines are assessed by local assessors, although the commission often advises with assessors regarding their value.

Our statutes provide that the total value of the distributable property of railroads in this State shall be allocated to each county and other municipality through which it extends on a main-line mileage basis. The law does not specifically define the method for distributing the value of other public utilities, but for many years values have been distributed as follows: Telephone, telegraph, electric companies and electric transmission lines, on a wire mileage basis, oil pipe lines on pipe line basis. The value of toll bridges is allocated to the municipality where located.

## BANK STOCK

Banks and trust companies are assessed by local assessors, under Section 12775, which provides that the president or other chief officer of such corporation shall deliver to the assessor a list of its shares of stock and the face value thereof, the value of real estate, if any, together with all reserve funds, undivided profits, premiums or earnings, and all other values belonging to such corporation, and the same shall be assessed as other property at their true value in money, less the value of real estate, if any, represented by such shares of stock. Under decisions of our Supreme Court, banks and trust companies are permitted to deduct all liabilities, in arriving at the value of their shares of stock for taxation purposes.

## BUILDING AND LOAN STOCK

All shares of stock in building and loan associations, upon which no loan has been obtained, shall be returned to the local assessor and assessed at its "actual cash value" on the first day of June of each year.

## MERCHANTS AND MANUFACTURERS

Under special laws, property of merchants and manufacturers is assessed and taxed as separate classes. The owners of such property shall make, in the case of merchants, a sworn statement of the greatest amount of goods, wares and merchandise which they had on hand at any one time between the first Monday in March and the first Monday of June of each year. Such statement shall include all goods, etc. owned by the merchant and consigned to him for sale by other parties. Manufacturers make returns and are licensed and taxed on all raw material and finished products, tools, machinery and appliances used by them, in the same manner as is or may be provided for the taxing and licensing of merchants. Rates shall be the same on merchants and manufacturers and their taxes due and payable the year of assessment. The assessor shall enter such statements in a tax book, which shall be equalized by the county board.

While the State Board of Equalization fixes the final value upon which general and corporation taxes are to be extended, it does not equalize the value of the property of merchants and manufacturers.

## INTANGIBLES

Intangible property, that is, money, notes, bonds and other evidence of debt is subject to assessment at its true value in money and taxed at the same rate of levy as all other property of the state. It appears from the records, and what seems to be common knowledge, that only a very small part of such property is placed on the assessment rolls.



All other business corporations shall make return of their property to local authorities, which property shall be assessed in the same manner and to the same extent as the property of individuals.

#### TAX-LEVYING BODIES, TAX LEVIES AND TAXES

We have five general tax-levying bodies, viz: The general assembly which makes levies for all state purposes; county courts for all county purposes; city councils and boards of aldermen for town and city purposes; district school boards for school purposes, and road commissioners for special road districts. Also the general assembly has, by law, provided means of raising revenue from sources other than by a direct tax on property, the most important of which are income, corporation franchise and inheritance taxes. It has also provided for the collection of fees from a number of other activities carried on in this state.

Our general state revenue is derived from sources as follows, viz:

First: Tax of 5 cents on the \$100 valuation on real and personal property; property and assets of corporate companies; stock and undivided profits of banks and local insurance companies; the property of merchants and manufacturers; the property of railroad, private car, bridge, telegraph and telephone companies; steamboats and other vessels, oil pipe lines and electrical companies, and all other property, subject to taxation, which is not otherwise taxed.

Second: Tax of  $2\frac{1}{2}$  per cent on gross receipts for business done in this state by express companies.

Third: One-half of the tax of 2 per cent on the gross premiums collected in this state by foreign insurance companies, which tax is in lieu of all other taxes.

Fourth: License tax on auctioneers, brokers and exchange dealers, peddlers, ferries and billiard and other tables.

Fifth: Tax of  $1\frac{1}{2}$  per cent on sales of dutiable goods by auctioneers.

Sixth: Fees paid by corporations, when articles of incorporation are issued, under Section 21, Article 10 of the constitution.

Seventh: Interest on moneys in state depositories.

Eighth: Fees for services of secretary of state, issuing commissions, etc., and of state auditor, registering municipal bonds.

Ninth: Fees for commissions of notaries public.

Tenth: Receipts from sales of Statutes of Session Acts.

Eleventh: Receipts from fees for inspection of soft drinks and oils.

Twelfth: Excess fees from clerks of supreme court, Kansas City Court of Appeals, St. Louis Court of Appeals and Springfield Court of Appeals.

Thirteenth: Tax of 1 per cent on incomes. Administration by local officials under the supervision of the state auditor.

Fourteenth: Tax of 5 cents on each \$100 of capital stock and surplus of corporations, known as corporation franchise tax. Administration by the state tax commission.

Fifteenth Direct inheritance tax. Administration by state treasurer and attorney general.

Sixteenth: All receipts into the state treasury not required by law to be placed to the credit of some other fund.

Seventeenth: Fees ice-cream inspection, egg traffic, dairy license.

For the year 1929 the receipts from all these sources were \$14,441,829.86, of which \$2,729,738.34 or 18.90% was derived from inheritance taxes; \$2,348,491.68 or 16.26% from corporation franchise taxes; \$1,229,654.09 or 8.51% from county foreign insurance; \$4,252,489.19 or 29.44% from income, and \$2,491,295.90 or 17.22% from ad valorem taxes on property, and the balance of \$1,390,160.66 or 16.67% from all other sources.

The disbursements from this fund are as follows:

First: For support of the public schools, one-third of the receipts as appropriated by the general assembly.

Second: For pay and contingent expenses of the general assembly, salaries of officers, costs in criminal cases, assessing and collecting the revenue, support, improvement and repair of the eleemosynary, educational and penal institutions, and all other expenses of the state government.

From this fund, including the balance at the beginning of the year 1929, warrants were issued amounting to \$10,482,319.17 and \$4,831,792.10 was transferred to the state school fund, leaving a balance of \$857,458.53.

The State levies a license tax on automobiles. The law is administered by the Secretary of State.

Also, we have a gasoline tax of 2 cents per gallon. The law is administered by the state oil department, a commission created for the purpose of inspecting oils and gas, and collecting the tax. A large sum is collected from these sources and the entire amount is used for construction of highways, the administration of the state highway department and expenses of licensing automobiles and the collection of the tax.

#### COUNTY GOVERNMENT

The business administration of all counties in this state is administered by county courts composed of three judges and a clerk, all holding their offices by election.

The court, independent of all other administrative officials, conducts its business affairs under the provisions of the statutes appli-

cable to their particular county. It makes the various tax levies necessary to raise sufficient funds to carry on the activities of the county and to meet general expenses. It directs the expenditure of all money used in the construction and maintenance of county roads and bridges and all other improvements and expense necessarily incurred in the general management of the business affairs of the county. It audits all claims against the county for money due, and when approved, orders payment of same.

Our constitution and laws limit the amount of taxes to be levied as follows:

For county purposes, the annual tax on property, not including taxes for the payment of valid bonded indebtedness or renewal bonds issued in lieu thereof, shall not in any county in this state exceed the rates herein specified.

In counties having six million dollars or less, said rate shall not exceed fifty cents on the one hundred dollars valuation; in counties having six million dollars and less than ten million, said rate shall not exceed forty cents on the one hundred dollars valuation; in counties having ten million dollars and not exceeding thirty million, said rate shall not exceed fifty cents on the one hundred dollars valuation; and in counties having thirty million dollars, or more, said rate shall not exceed thirty-five cents on the one hundred dollars valuation.

#### CITY GOVERNMENT

City governments are conducted by local elective and appointive officers. Their business affairs are carried on in substantially the same manner as those of the counties. They levy and collect taxes and licenses for the support and maintenance of their governments. In most cities the mayor and council are the business managers of the city. They fix the rate of tax levy and licenses for city purpose and direct the expenditure of money for public improvements, repairs, and general expenses of the city or town. Their governments are independent of the county and state authorities.

#### SCHOOLS

The state is divided into more than 8,000 public school districts. They are classified as city and town, rural and consolidated. Each is governed by a board of directors, who levy taxes and direct the expenditure of same. If additional revenues are needed, more may be obtained by a vote of the taxpayers within the district subject to constitutional limitations.

All the districts receive a small apportionment from the one-third of the state revenue appropriated to the public schools. A few weak districts receive substantial aid from this source.

Our constitution and laws restrict the amount of property taxes

which may be levied for school and building purposes, as follows: City and town, and consolidated schools may, by majority vote, levy one dollar on each one hundred dollars assessed valuation for school purposes and the same amount for building purposes. Rural schools may, by majority vote, levy sixty-five cents on each one hundred dollars assessed valuation for school purposes and the same amount for building. In addition to the property tax and state apportionment, most counties have a permanent school fund, from which it derives a small income. The report of the state superintendent of schools shows that 85% of the revenue in local districts is derived from a tax on property, 11.08% from appropriations by the state, and 3.89% is derived from other sources.

While the school district is the smallest municipal organization authorized to levy taxes, yet the combined revenue for school purposes exceeds the amount raised by any other taxing subdivision of the state.

#### CORPORATION FRANCHISE TAX

MISSOURI LAWS provide that all domestic corporations, and all foreign corporations doing business in this state, shall pay an annual franchise tax of one-twentieth of one per cent on their capital stock and surplus.

Provided, that this law shall not apply to corporations not organized for profit, nor to express companies, which now pay an annual tax on their gross receipts in this state, and insurance companies, which pay an annual tax on their gross premium receipts in this State.

Provided, bank deposits shall be considered as funds of the individual depositor, and shall not be considered in computing the tax.

Returns are made to the state tax commission, which computes the tax, and certifies same to the state treasurer for collection.

If any domestic corporation, subject to the tax, fail or neglect to make the report required, it shall have its charter revoked; if a foreign corporation, it shall forfeit its right to engage in business in this state. It is the duty of the attorney general, or at his direction, county prosecuting attorneys, to enforce the laws relating thereto. The report shall be made on forms prescribed by the tax commission, as provided in Section 9837 R. S. Mo. 1919.

Report must be sworn to, and filed with the commission on or before March 1st of each year.

The report should show the status of the company, as of December 31 of each year preceding filing date.

The commission requires that a balance sheet, showing the assets and liabilities, be attached to the report; corporations using fiscal year may report figures at close of such year.

Taxes are due May 15, and should be remitted direct to the state treasurer.

If not paid by June 1st, they are returned delinquent, and if not paid by August 1st, a penalty of 25% of the tax, and interest at the rate of one per cent per month is added.

The attorney general collects delinquent franchise taxes.

The tax is computed on capital stock and surplus.

Surplus, for the purpose of this tax, is the difference between the par value of the capital stock and the gross value of assets, without regard to liabilities. 282 Mo. 221 and 6 S. W. (2d) 907.

For the purpose of this tax, no par shares of stock shall be considered equal to par value shares of \$5.00 each.

The law relating to no par shares was amended by Session Laws 1929, P. 329.

If the par value of the capital stock issued and outstanding is greater than the actual value of the assets, the tax will be computed on the capital stock.

Both domestic and foreign corporations pay taxes only on the amount of their property and assets employed in Missouri.

Building and loan associations shall pay a specific tax of \$25.00. Other provisions with reference to specific taxes are found in Section 9841, R. S. Mo., 1919.

No corporation, other than banks and trust companies, has authority to consider deposits, the property of the depositor.

A corporation continuing business under receivership, shall make return and pay the tax.

Corporations must file statement of withdrawal with the secretary of state to avoid further taxation.

Stock of a foreign corporation held by a domestic corporation is a deductible item.

Stocks owned by a domestic corporation in a foreign corporation, are deductible.

Stock owned by a domestic corporation in another corporation, is not deductible.

Federal securities held by a corporation are not deductible.

Bonds and notes of a foreign corporation held by a domestic corporation, are not deductible.

Bonds and notes of a domestic corporation held by another domestic corporation, are not deductible.

Assets of a Missouri corporation held without the state, but not actively used in carrying on the business for which the corporation was organized, should be reported as assets within this state.

Intangibles should be allocated to the domicile of the corporation. But intangibles arising out of branch business, and controlled by the branch, should be allocated to the domicile of the branch business, whether domestic or foreign.

Outstanding accounts due, either from a domestic corporation or accounts due from a foreign corporation, doing business in this

state, such accounts of the foreign corporation having arisen out of business done in this state, should be reported for taxation.

Money and securities deposited with correspondent banks, or others, in foreign states to facilitate exchange, is not considered capital employed in business in other states.

The commission may summon witnesses to give testimony with reference to this tax. Also it may appoint a commissioner to take testimony in any proceeding or inquiry arising with reference to the tax.

Neither the commission nor any one connected with the administration of the law shall give out any information regarding the affairs of any corporation.

CHAIRMAN SMITH: By referring to your programs you will note a discussion is to be had of the four papers to be read this morning immediately after the conclusion of the last paper, so please make your pencil notations and mental reservations for that time.

Our next speaker is a man who has given much study to the subject of taxation and finance. His articles which have appeared in the press have proved to be extremely interesting to the public. It is now my pleasure to present Doctor Isidor Loeb, of Washington University, St. Louis, who will speak on the subject of "Proposed Changes in Missouri Taxation and Finance."

## PROPOSED CHANGES IN MISSOURI TAXATION AND FINANCE

ISIDOR LOEB

Washington University

It is desirable to preface the discussion of this topic with a brief account of the conditions which led to the enactment of the statute creating the Missouri State Survey Commission which has proposed the changes that will be discussed.

Missouri has followed the policy of local control of public schools and has used the small district as opposed to the township or county as the unit of school administration. As a result most of the rural school districts have been unable to secure sufficient money for school purposes by local taxation. They secured some assistance from their share of the income of the various school funds and of annual appropriations of one-third of the state revenue for school purposes, but these produced only a small amount for each child in the school. Under these conditions most of the districts could not provide satisfactory teachers, buildings or equipment.

Any substantial increase in the state appropriation for public schools was made impossible by the fact that the revenue of the state was too small to meet the needs of the state government and

its institutions. This condition has existed off and on for thirty years. It was due first to the fact that most of the state's revenue came from the tax on property and the constitution prohibited any increase in the rate of this tax. The second cause was the large increase in state activities and in the number of state institutions resulting in greater demands upon the state's revenue.

Some relief was secured in 1917 through legislation providing a number of new taxes of which those on incomes, corporation franchises and inheritances were the most important. Soon afterwards, however, the legislature reduced the rate of the first two of these taxes as well as of the general property tax, with the result that deficits were prevented only by the policy of vetoing and holding up items in appropriations. Hence state institutions have secured only a few buildings during the last decade and maintenance funds have been wholly inadequate.

As agreement could not be secured for bills providing for increases in taxation, the legislature, in 1929, passed the State Survey Commission Act and appropriated \$60,000 to pay the expenses of the commission. The duties of the commission were defined as follows:

"The commission shall make a full and complete examination and survey of the financial and revenue resources and needs of the state and of the several departments of state government and of the grounds, buildings, equipment, facilities, operations and needs of the state eleemosynary, penal and educational institutions, and of the public school system and of the facilities afforded to each child of whatever race to secure an education. . . . It shall complete its work on or before the 30th day of November, 1929, and make a full report to the governor of its findings and recommendations with a detailed estimate of the cost of improvements recommended. It shall also include the amount of additional revenue, if any, that would be required and the methods recommended for providing such revenue."

The report of the State Survey Commission was published in a volume of nearly 200 pages. The commission published also six supplementary volumes containing material relating to the different divisions of the commission's work. Three of these, dealing with The Taxation System of Missouri, The Finances of the State of Missouri, and Financial Administration of the State of Missouri, were prepared by Griffenhagen and Associates, Ltd., who were employed by the commission to make these studies. The governor will submit the report of the commission with his recommendations at the next session of the general assembly in January, 1931.

The commission submitted findings regarding the needs of the public schools; state institutions, and a few departments, with recommendations for a ten-year program of expenditures to meet these needs. As a basis for determining the additional revenue that would be required for this program it had its experts make an estimate of revenues and expenses for the ten-year period, 1931-40, under existing laws, and for existing services, assuming no changes in policies, organization, plant facilities, nor operating methods. This forecast revealed a net surplus for the ten-year period of \$1,058,673. Hence the commission's recommendations for additional expenditures involved the raising of approximately the same amount of additional revenue.

The following table indicates the estimated costs of meeting the commission's recommendations for the ten-year period:

TABLE OF INCREASED EXPENDITURES

| <i>Purpose</i>                     | <i>Capital<br/>Outlays</i> | <i>Increased<br/>Support</i> | <i>Total<br/>Increased<br/>Expenditures</i> |
|------------------------------------|----------------------------|------------------------------|---------------------------------------------|
| State Educational Institutions...  | \$16,178,000               | \$ 12,081,600                | \$ 28,259,600                               |
| Public Schools . . . . .           | 2,100,000                  | 100,600,000                  | 102,700,000                                 |
| State Eleemosynary Institutions..  | 16,175,000                 | 40,392,800                   | 56,567,800                                  |
| State Penal Institutions . . . . . | 4,512,000                  | .....                        | 4,512,000                                   |
| Administrative Office Building ..  | 500,000                    | .....                        | 500,000                                     |
| Governor's Mansion . . . . .       | 150,000                    | .....                        | 150,000                                     |
| Totals . . . . .                   | \$39,615,000               | \$153,074,400                | \$192,689,400                               |

Some deductions must be made from the total of capital outlays because certain appropriations, held up by the governor, have been or may be released by him before the end of this year, thus reducing certain items included in the commission's recommendations. The maximum amount, according to the commission, is \$1,716,500. It is impossible to determine how much of this amount will be expended before the appropriations lapse.

On the other hand, the commission, in preparing its figures, clearly omitted or underestimated certain items, so that to carry out the entire program as proposed would require a larger amount than indicated. The commission does not make any recommendation for increase in appropriations for support of penal institutions and reformatories, though some of its proposals necessarily involve increased expense for upkeep and salaries. A similar omission to provide for increased overhead occurs in one of the eleemosynary institutions.

The most important example of underestimating costs is in the matter of state aid for public schools. The commission's report does not give any information regarding the basis upon which it arrived



at this estimate. The educational experts employed by the commission submitted statistical tables in support of a plan proposed by them. The commission made significant changes in the experts' plan, thereby materially reducing the cost to the state. Under the experts' plan increased state aid during the ten-year period would have amounted to \$165,300,000. The commission's estimate was \$102,700,000. By using the experts' tables, with allowances for the differences in the plans, and making assumptions that appear to be in line with those indicated in the commission's report, an amount is obtained that is about \$6,000,000 in excess of that estimated by the commission.

Adding to the total increased expenditures recommended by the commission an estimate of the amounts omitted or underestimated and subtracting an estimate of the money spent during the present biennium under releases by the governor would give approximately \$200,000,000 to be provided for through additional state revenue.

It should be noted also that the commission's public school plan does not go into full operation until the beginning of the eleventh year. No figure is given for its cost after that date but according to the commission's figures for the previous biennium the annual additional state aid above that which now obtains would be about \$15,000,000. Hence, the increased cost to the state of the commission's plan during the second decade would be about \$150,000,000, or nearly 50% more than during the first ten-year period.

The totals of increased expenditures recommended should be compared with the existing normal costs of the state. Missouri has many funds in its treasury but the General Revenue Fund is the one out of which most of the appropriations for public schools and practically all for state institutions are made, and it is the one from which the increased expenses recommended by the commission must be paid. The experts' figures for 1928 (the latest for which they had definite statistics) show that the total receipts in this fund were \$13,653,575, of which \$212,995 was non-tax revenue. Hence the commission's figures involve an average annual increase in state tax revenue for this fund of 143%.

It should not be assumed, however, that all of this is new expenditure or new tax burden. One of the outstanding features of the commission's plan is tax relief for property. Of the total recommended for increased expenditures for eleemosynary institutions, \$34,122,500 represents a transfer from the counties to the state of the cost of the support of inmates in these institutions. To this should probably be added \$1,100,000 for estimated overhead of the St. Louis City Sanitarium which it is recommended shall be taken over by the state.

A large part of the total of increased expenses for public schools also represents a transfer. While the commission gave no definite

figures on this point, certain data submitted by the educational experts makes it possible, without any pretense of exactness, to indicate that approximately \$65,700,000 represents educational costs transferred from school districts to the state, leaving \$37,000,000 as the amount to be expended for educational expansion. If this estimate is approximately correct, \$100,922,500 of the increased expenditures recommended by the commission represents tax relief for counties and school districts while \$91,766,900, as new expenditure, will represent increased tax burden.

It should be noted that the chairman of the commission, in a public statement last month, claimed that approximately \$150,000,000 of the total proposed increase of \$192,689,400 represents existing taxation transferred from local governments to the state. In arriving at this figure, he listed approximately \$100,000,000 for public schools as tax relief. As the total amount recommended for public schools is only \$102,700,000, and as one of the chief purposes was to secure improvement of educational opportunities, it is clear that his estimate is absurd. It is contradicted, moreover, by the published figures of the commission's educational experts.

Of the total of \$39,615,000 capital expenditures the commission recommends that \$13,118,800 shall be provided during the first biennium and that the balance shall be spread over the remaining eight years. It is indicated that this plan "will permit of definite programs of development at the various institutions and the planning of buildings to better fit the needs." The commission favors, also, the "pay-as-we-go" basis, as "it would seem much more economical to provide funds from annual income, since the interest and sinking fund on bonds would soon nearly equal the annual outlay." The desirability of relieving property from additional tax burdens due to bond issues was also an important reason for paying for capital outlays out of increased current income which, as will be indicated, was to be derived from other sources than the property tax.

Before presenting the recommendations for specific increases in taxes it is important to note that the commission makes its estimate of increased revenue from such taxation cover a period of twelve years and that the total foreseen for this period is much less than the proposed expenditures for the ten-year period. For the first ten years of the twelve-year period the commission estimates that the revenue from increased taxation will amount to \$128,750,000. Thus, at first glance, it would seem that the commission has left to the legislature the unpleasant task of finding other sources of income for the balance of \$63,939,400 needed to carry out the commission's ten-year expenditure program.

While the commission makes no direct statement regarding this matter its final recommendation is "that no funds be expended nor

obligations incurred to carry out the program outlined herein until the taxes levied to support the plan have been in effect one year." In Missouri, most bills that are passed do not go into effect until 90 days after the adjournment of the legislature that enacts them. The general assembly will meet early in January, 1931. Adjournment comes usually in three months, so that the bills passed will probably become laws early in July, unless suspended by referendum petitions. The income tax is expected to produce 80% of the increased revenue. As it cannot be made retroactive the increased tax on incomes, accruing in 1931, can apply only to the last six months and will not be paid until June,\*1932.

It is probable therefore that the commission contemplated that little if any of the expenditures provided in its program would be made during the biennium 1931-32. This is the most favorable interpretation of the motive of the commission in submitting a twelve-year program of increased revenue to cover a ten-year period of increased expenditures. Assuming that it is correct, the increased revenue will accumulate for one and one-half years and the increased expenditures will commence in 1933. Thus the twelve-year program of revenue will roughly correspond to the ten-year period of expenditure.

The commission forecast \$158,800,000 of additional revenue during the above twelve-year period. This leaves a balance of \$33,889,400 of increased expenditures unprovided for. While the commission here, also, offers no explanation, it appears from its findings that it favored certain additional taxes to provide for this deficit but for some reason decided not to formally recommend them. These will be referred to presently.

The statute creating the commission and the events leading to its enactment do not appear to indicate a consideration of the general problem of equalization of taxation. The commission, however, at the outset of its discussion of new taxation, frankly says, "the raising of more revenue has become only one motive in the proposed program." Its attitude is set forth as follows:

"Aside from the rehabilitation of the present plants of the various state institutions, more pressing than any building program, or any other need of Missouri, or all other needs put together, are a readjustment of assessments and an equalization of the tax burden."

It is also indicated that the latter are necessary to arrest the decline in property values that has been going on since 1912.

The commission's recommendations for the public schools were in large measure intended to secure equalization in support on a state-wide basis by establishing a much lower local school tax and by transferring the balance of the cost of support to the central

treasury. The equalization plan owes its origin to the educational experts and does not appear to have been recommended by the tax experts, though they recognized the necessity for state aid to education based upon differences in the tax-paying ability of different sections. The same desire for tax relief for counties was the impelling motive for recommending that the state should meet the cost of full support for inmates of eleemosynary institutions. These features have assumed such significance that the popular advocacy of the adoption of the commission's recommendations has largely stressed tax and farm relief and much less attention has been given to the needs of state institutions and the improvement of opportunities in the public schools.

The commission announced that the following objectives were necessary in the state's taxation system:

1. "That of correcting faults in levying taxes and in administration which result in evasion and inequalities."
2. "That of equalizing the tax burden so, as nearly as possible, all people in all sections pay their just share of state taxes."
3. "That of providing for a more equitable distribution of the revenues received from state taxes."
4. "That of reduction in financial transactions between the state and the counties, and the counties and the state to the minimum, with resulting simplification of accounting and saving in expense."
5. "That of adding to the state's revenues and equalizing the tax burden as nearly as possible in order to meet the present and future needs of the government as set out by the commission under other proposals."

The recommendations of the commission, which are designed to secure the attainment of the above objectives to as great an extent as possible may be summarized as follows:

1. On account of wholesale evasion, "the exemption of the ever-increasing intangible wealth of the state from the assessment for property-tax purposes is recommended." It is proposed to reach intangible property by means of a graduated tax on incomes.

Mr. Langdon R. Jones, a member of the commission dissented from this recommendation for the following reasons:

"That such a recommendation, even if enacted into law, would be unconstitutional and unenforceable."

"That real estate values are sufficiently depressed under existing conditions and intangibles now are more alluring to capital seeking outlet in the way of investments, without mak-

ing intangibles more attractive and real estate less attractive, as in my opinion this recommendation would do."

Mr. Jones is probably correct in his view that this recommendation would require a constitutional amendment, though as much may not be said for his economic views on this matter.

2. That a "Gross Production Tax," similar to that of Oklahoma be substituted for the present property value tax on oil, gas, minerals and timber.

3. That the state pay to all school districts the amount by which the cost of adequate public schools exceeds the yield of a low school-tax levy which, in the first stage is 20 cents, and in the final period is 35 cents on the \$100 assessed valuation.

4. That a method similar to that in the preceding paragraph be used for state aid for local street and road improvement and maintenance, at any time in the future when it is possible to increase the state tax rates on gasoline and motor licenses and to abolish local taxes of this character. The constitution prohibits the increase of the state rates but the commission indicates that conditions will make it necessary to remove this limitation after 1933.

5. It is recommended "that the next legislature provide for a careful study and revision of the taxation system, as well as the administration thereof, of Missouri, and that this study include *luxury taxes*."

6. The commission recommends the "pay-as-we-go" policy instead of a bond issue for capital expenditures in the ten-year program.

7. That the amounts recommended for buildings for each institution be segregated and known as "building funds".

8. That the one-half of the proceeds of the Foreign Insurance Tax, which now goes to the counties and is used for free textbooks, shall be diverted to the state as a part of the twelve-year program of increased revenue. It is estimated that this will amount to \$16,500,000 in the twelve years.

9. That the present corporation franchise tax be increased from one-twentieth of one per cent to one-tenth of one per cent.

10. That the present income tax of one per cent be increased to 2½ per cent in the case of corporations with no exemptions. In the case of individuals the present and proposed rates are shown in the following table, with the same exemptions as at present, i. e. \$2000 for a head of a family plus \$200 for each dependent child and \$1000 for other persons:

RATES ON INCOME  
ABOVE THE EXEMPTIONS

NORMAL TAX

| <i>Incomes Terminating</i> | <i>Additional</i> | <i>Present</i> | <i>Total</i>     |
|----------------------------|-------------------|----------------|------------------|
| Up to \$1,500 .....        | $\frac{1}{2}\%$   | 1%             | $1\frac{1}{2}\%$ |
| \$ 1,500 and above .....   | $1\frac{1}{2}\%$  | 1%             | $2\frac{1}{2}\%$ |
| SURTAX                     |                   |                |                  |
| \$ 4,000- 7,000 .....      | $\frac{1}{2}\%$   | -              |                  |
| 7,000-10,000 .....         | 1%                |                |                  |
| 10,000-13,000 .....        | $1\frac{1}{2}\%$  |                |                  |
| 13,000-16,000 .....        | 2%                |                |                  |
| 16,000-19,000 .....        | $2\frac{1}{2}\%$  |                |                  |
| 19,000 and up .....        | 3%                |                |                  |

The higher normal rate is levied upon the full amount of all incomes that reach \$1,500 or more above the exemptions. For the surtax, \$4,000 is added to the exemption and the income above this amount is taxed at the rate opposite the bracket in which the total taxable income terminates.

The following table gives a comparison of the present and proposed tax computed for a married man with two dependent children:

| <i>Entire Income</i> | <i>Proposed Tax</i> | <i>Present Tax</i> |
|----------------------|---------------------|--------------------|
| \$ 3,000 .....       | \$ 0                | \$ 6               |
| 4,000 .....          | 40                  | 16                 |
| 5,000 .....          | 65                  | 26                 |
| 10,000 .....         | 226                 | 76                 |
| 20,000 .....         | 780                 | 176                |
| 100,000 .....        | 5,248               | 976                |

While the commission recognizes the fact that the Missouri exemptions are lower than the federal "results in effect in making the state law unnecessarily difficult to administer fairly," it regards the state exemptions entirely adequate and does not recommend any change. It defends the proposed increase of rates upon relatively small incomes on the ground that the federal tax is sharply progressive upon very large incomes, with great exemptions and very low rates on incomes below \$20,000. Hence the state rates "may fairly impose a considerable extra income tax in the lower and middle as well as high income 'brackets'". The commission does not appear to have considered the question of a lower rate in favor of earned incomes, such as is provided in the federal income tax.

In its forecast of additional revenues for the twelve-year period, the commission estimates an increase from the income tax of \$7,000,000 for the first year, which gradually becomes larger until in the eighth and succeeding years it is given as \$12,000,000. It is stated, however, that "the higher estimates for later years are submitted with the clear understanding that they cannot be realized

without very radical strengthening of the administration." The commission in its findings calls attention to the defects in the system of administration of the income tax by locally elected assessors with inadequate state supervision. Despite the fact that the revenue needed for its program depends upon more efficient administration, the commission makes no specific recommendation regarding this important matter.

The same is true of the assessment of the general property tax. The commission calls attention to the fact that inadequate machinery for assessment in both kinds of taxes results in evasion of taxation and increase of burden upon those who do not evade. Though it had indicated in the beginning of its discussion of taxation that a readjustment of assessments is one of the most pressing of Missouri's needs, it contents itself at the end with a recommendation that the legislature provide for a study of this matter. The commission in other parts of its report had recommended appointive instead of elective tenure for the state and county superintendents of schools. It appears to have favored the plan but, fearing too much opposition, was reluctant to make a specific recommendation for appointment instead of election of county assessors.

Previous reference has been made to the fact that the commission's twelve-year program of increased revenue for the first ten years was nearly \$34,000,000 less than the amount of increased expenditures for a ten-year period. There is some evidence that this was due to a last-moment decision to abandon a plan for tobacco, beverage and theater admissions taxes. The commission states "that it is firm in the conviction that luxury taxes of the proper type should be levied." It believed that these taxes would secure revenue from "a very considerable population . . . that owns no property and pays no tax." The commission decided, however, not to recommend new forms of taxation in starting its program. As indicated above, its recommendation to the legislature for a study of the taxation system included a specific reference to luxury taxes and it probably contemplated that these would be used in making up the above deficit.

Any estimate of the work of the survey commission must take into consideration the limited time available for its enormous task. The statute required it to complete its work on or before November 30, 1929. The commission held its first meeting on May 21st and appointed its office personnel on June 4th.

The educational experts were employed on July 27th. On account of the limited time, they insisted that their report, which was not submitted until November 25th, should be regarded as of a preliminary character. The experts on taxation and finance commenced actual work on August 2nd. The results of the tax study were submitted on November 11th and that on finances on November 20th.

While there must be some doubt as to whether the members of the commission had sufficient time for consideration of the material and deliberation regarding their recommendations, there can be no question regarding their unselfish devotion to their task. Their exhibit of the needs of the public schools and of state institutions is of outstanding importance and deserves the intelligent consideration of all citizens.

The most general criticism of the commission is that it undertook to accomplish too much at one time. Aside from any other consideration, it is certain that a proposal to so largely increase taxation for general state revenue will encounter opposition that may imperil the entire program.

More than one-half of the total increase is for public schools. Of this amount, however, only 36% is for educational improvement, the balance representing tax relief for school districts. While the commission favors enlargement of these districts, its plan leaves this entirely voluntary with each district. There is serious danger that the plan will result in the perpetuation of the inadequate and inefficient small rural district and do more harm than good to the cause of education.

While much may be said in favor of state support of the mentally diseased, the commission's recommendation for about \$35,000,000 for this purpose appears to have been chiefly due to the desire to provide tax relief for counties. The president of the board of managers of state eleemosynary institutions and many others believe that this may jeopardize the program for securing funds for needed buildings and removal of fire hazards and they suggest postponement of full state support to a later period.

If this were done and if the expenditures for public schools were confined to educational needs there would be a reduction of approximately \$100,000,000 in the proposed state expenditures. This would bring the program within workable proportions and make it possible to meet the pressing needs of state institutions and provide reasonably good educational facilities in rural districts, where they are largely non-existent today.

This would not meet the demand for tax reductions on property which is being urged largely as a measure of farm relief. Undoubtedly, most Missouri farmers have experienced a period of serious financial depression. Data submitted indicate that the percent of farm income required for taxes has been increasing materially and is greater than the percent of income of other groups that is taken for state and local revenue.

It does not follow, however, that the proposals of the commission constitute any substantial or logical system of farm relief. Dr. R. T. Compton, in a study of the Fiscal Problems of Rural Decline, published by the New York State Tax Commission last



year, says, in discussing the dangers of certain methods of state aid for rural schools:

"Much as rural relief is to be desired, the state must not rush into any untried program. It is quite possible that reforms might do more harm than good to the farmers themselves. Until its results, desirable and undesirable (for the results of every program may be expected to be of both types), can be predicted with fair accuracy any proposal should be subjected to rigorous examination."

The maximum tax savings under the commission's plan on the assessed value of the average Missouri farm would not exceed \$25 and in the later stages of the public school program it would be less than this amount. This does not take into account the tax savings on personal property which could not be very large. This tax saving, though small, is a large percent of the farmer's net income if living expenses for himself and family are excluded.

The experts, however, are in error in stating that "except the property tax, there is no tax upon agriculture which is a material burden." Motor vehicle taxes are regarded as relatively light and compensated for by increased value to the farms. This impression, true enough in many cases, is based upon early discussions of this subject. Later studies, including that of Dr. Compton referred to above, show that "many property owners are definitely injured by the extension of the improved highway system."

A recent investigation of *The Relation of the Tax Burden to Farm Land Values in Boone County, Missouri*, by Mr. A. E. Van-Eaton, states that, in 1927 these taxes required an average of 18 cents per acre of farm land, a total of \$28.80 for a 160-acre farm. The revenue from these taxes has built good roads but studies have shown that, while some farmers benefit through increased land values, farms, that in some cases are only four miles from an improved highway, fail to derive any such benefit. If the commission's suggestion for increases in these taxes is adopted, most farmers may lose more than they gain through the proposed reduction in the county road tax. The fundamental tax problem of farmers is one of proper readjustment of assessment, and for this the commission's plan offers no solution. It also offers no relief for tenant farmers who operate one-third of all Missouri farms.

While home owners in towns and cities will also have some tax savings under the proposed plan, they will be, in many cases, more than offset by increased income tax payments. It is a definite part of the commission's plan to increase the tax burden of those with incomes but little or no property, i. e. skilled workmen and the salaried class. As indicated above, it is also desired to include unskilled laborers by means of tobacco, beverage and admission taxes.

Landlords, those having tenants on farms and in houses and apartments in cities, together with those who hold land for speculative investment will be the real beneficiaries of the commission's plan. Residents of other states owning land in Missouri will also have tax relief under this plan. When one realizes the extent to which the value of their property is enhanced by public improvements financed by general taxation, including motor license, gasoline and other taxes on consumption, there appears little justification for tax relief even if they are suffering from a temporary depression in land values.

Part of the existing appeal for tax relief for real estate is due to special assessments for drainage districts in rural communities and for streets and sewers in urban districts. Some of these special assessment districts have been laid out in an inequitable manner with resulting great hardship upon farmers and owners of small homes. Tax savings under the commission's plan will not affect these payments though many do not discriminate between them and ordinary tax payments. Inability of some drainage districts to pay interest on their bonds has affected investors who have joined in the demand for tax relief for real estate.

Approximately, \$92,000,000 additional revenue will be needed by the state if the commission's tax relief plans are eliminated. Practically all of the other items recommended are clearly needed and omission of provision for overhead, in some cases, will increase the above amount. Under normal conditions, much may be said in favor of taxation as opposed to bond issues in state finance. The backwardness of Missouri, however, in the building program of its institutions and the resulting serious situation has created an emergency. This would seem to justify the raising of the \$40,000,000 for capital expenditures by the sale of bonds. To those who would claim that this would increase the tax burden on property, it may be answered that there is nothing to prevent making the interest and sinking fund requirements payable out of other taxes as was done in the case of the two bond issues for good roads.

This would leave about \$52,000,000 to be provided over a ten-year period. While this would require a considerable increase in the annual tax revenue for general state purposes, it is clearly needed if Missouri is to measure up to proper standards in education and in care for her dependents and delinquents.

It would appear that the proper method would be to provide temporarily for raising the additional revenue by proportionate increases in the existing major sources of state revenue, possibly excluding the inheritance tax, where the rates appear sufficiently high. The legislature could then provide for an adequate investigation of the entire system of taxation with a view to readjustments that may be found necessary. While the studies made by

the experts are of value, the commission in recommending "a careful study and revision of the taxation system" must have recognized, as probably the experts did also, that these could not be accepted as adequate for the purpose.

CHAIRMAN SMITH: I called your attention to making your pencil notes so that these matters may be discussed after the reading of the four papers.

There was a time when Kansas had an intangible tax law, but contingencies came up whereby it became necessary to repeal it. Certain provisions of the law had been given different interpretations by as many lawyers as had considered it, and the deputy assessors of the state had construed it in about as many ways as there were deputy assessors, and there were over two thousand in Kansas. Things were in such a muddle, with everybody interpreting the law, that it came to a point where I often referred to a little piece of doggerel, cut out of a newspaper. Many of you have heard it, but it is worth while repeating. It goes something like this:

"What a wonderful bird the frog are,  
when he stand he sit almost,  
when he hop he fly almost;  
he aint got no sense hardly,  
he aint got no tail hardly either,  
and when he sits he sits on what he aint got almost."

That was about as clear as some of the interpretations the tax commission got on the intangible tax law.

In the administration of the law the tax commission was up against it nearly all the time—I mean, all the time. And the fact of the matter is, we had lawsuits, disputes, rumpuses, etc., and when the end of the poker got too hot, we would send out the S-O-S call for our tax attorney, Mr. Charles B. Randall, who never failed to respond; and I am going to ask Mr. Randall to tell this conference something about the intangible tax venture in Kansas and its consequences.

## THE INTANGIBLE TAX VENTURE IN KANSAS— ITS CONSEQUENCES

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It is a matter of common knowledge and regret that the plan to tax, in Kansas and elsewhere, mortgages, moneys, credits and other forms of intangible property on the ad-valorem basis had been unsatisfactory and unsuccessful. Many good authorities in the field of finance and taxation claim that to tax property of this character

involves double taxation. To what extent this criticism is true probably is of no material consequence. All who have had experience in the assessment of intangible property on an ad-valorem basis know that the tax evasion of such property is shameful.

Kansas became a territorial government in 1854. Its constitution was adopted in 1859. That part of it relating to finance and taxation reads as follows:

"Sec. 1. The legislature shall provide a uniform and equal rate of assessment and taxation; but (provision relating to exemption from taxation).

"Sec. 2. The legislature shall provide for taxing the notes and bills discounted or purchased, moneys loaned, and other property, effects, or dues of every description (without deduction) of all banks now existing, or hereafter to be created, and of all bankers; so that all property employed in banking shall always bear a burden of taxation equal to that imposed upon the property of individuals."

At the time of the adoption of our constitution, property in this state, as well as the middle and western states, consisted of real and tangible property. Bonds and securities, as we know them today, were almost unknown at the time of the adoption of our constitution. A man's wealth was measured by land and the personal property which he owned. A merchant's wealth was calculated by the quantity of goods on his shelves. Our constitution, in its original form, was well adapted and provided correct safeguards for the assessment and taxation of property in the pioneer days of this state. That there has been a vast change in the form of wealth of our people since 1859 to the present date is admitted. In 1907 real estate mortgages were listed in Kansas for taxation in the amount of \$4,000,000.00. By 1914 the amount had increased to approximately \$70,000,000.00. Moneys and credits for this same year were listed in the amount of approximately \$46,000,000.00. It is estimated that the amount of securities of this character owned by residents of Kansas was five times that listed, but the resources of the tax-collecting officials for uncovering such holdings appeared to be substantially exhausted. From statistical information secured by the Kansas State Tax Commission it was found, as early as 1914, in one city in the state the ad valorem tax took approximately 40% of the income from 6% securities and approximately 50% of the income from 5% securities. In 1924 this proportion of tax to income had increased to the alarming extent of 75% and in a few instances in excess of income. Holders of securities felt that they could and should not give up such a proportion of their income. On the other hand, in numerous other taxing districts the tax taken from incomes of intangibles was found to be less than one-tenth

of the percentages indicated. The result was inequality greater than should result from the administration of a fair and just system.

Whereas in 1859 tangible property comprised approximately 98% of the wealth in the state, by 1923 the ratio between tangible and intangible property was conservatively estimated to be 60% and 40% respectively. The wealth of the state, as estimated by the National Industrial Conference Board from census reports of 1922, disclosed the wealth of Kansas as \$6,264,000,000.00. According to most reliable estimates available, two and one-half billion dollars of this wealth consisted of intangibles, but in 1922 less than one hundred and fifty million dollars was listed for taxation. It was only natural that the legislature earnestly began, in 1923, to seek other legislative means to tax this vast amount of wealth. Laws of other states providing for a low millage tax on mortgages, moneys and credits were examined. It was found, notably in Minnesota, that whereas that state secured but fourteen million dollars of intangibles on its tax rolls in 1911, in 1928, under a three-mill tax, approximately one billion dollars of intangibles were listed. The Kansas legislature of 1923 submitted to the qualified electors of the state an amendment of our rigid and uniform constitution relating to finance and taxation, the following.

"Sec. 1. \* \* \* That sections 1 and 2, article 11, be amended and combined into one section, to read as follows: Section 1. The legislature shall provide for a uniform and equal rate of assessment and taxation, except that mineral products, money, mortgages, notes and other evidences of debt may be classified and taxed uniformly as to class as the legislature shall provide."

The amendment was adopted in 1924 by a vote of 250,813 for to 196,852 against. Under the authority of this amendment the legislature of 1925 enacted a mortgage registration law providing for an annual tax of 25c. on each \$100.00 of the obligation secured, the fee to be paid on registration and for the life of the obligation. An intangible tax law providing for an annual tax of 50c. on each \$100.00 of the value of intangibles and a secured debts law providing for a low rate of taxation on classified property consisting of domestic and foreign municipal and state bonds and debentures were also passed. It should be noted, when our constitution was amended in 1924 it retained the provision as to uniformity of rate of assessment and taxation as to all property which it did not authorize the legislature to classify and tax separately as to class. Before the amendment the provision read:

"The legislature shall provide for a uniform and equal rate of assessment and taxation."

The amendment added these words:

"Except that mineral products, money, mortgages, notes and other evidences of debt may be classified and taxed uniformly as to class as the legislature shall provide."

Attention is called to this amendment, for, as we shall later see, its provisions were to play an important part in our intangible laws and litigation that followed. As we have stated, the legislature of Kansas, in its first session following the amendment of our constitution, passed intangible laws relating to the taxation of mortgages, moneys and credits. Through these laws the legislature had high hopes of establishing an equitable and just law of taxation of intangibles and our old constitutional straight-jacket was to be a thing of the past. The state printer had hardly had time to officially print the acts of the legislature of 1925 when the Central National Bank of Topeka filed a suit in the Federal District Court of Kansas to enjoin the collection of taxes on its shares of stock. It brought to its rescue that well-known section of the Federal Law, 5219, solemnly guaranteeing that national bank shares may not be taxed at a higher rate than competing moneyed capital. The court had no hesitancy in upholding the contention of the bank. Other national banks began to interest themselves in the provisions of section 5219.

Many of us in Kansas had never heard of 5219. Some thought it was a telephone number; others thought it was an automobile license number, but we soon came to learn that it was a refuge in time of need when shares of stock in national banks were subject to assessment and taxation.

Following the lead of the Central National Bank, other national banks protested the collection of their taxes and stood by awaiting the outcome of the Central National Bank case. Following an appeal of the Central National Bank case to the Federal Circuit Court affirming the former decision, and subsequently the denial of a writ of certiorari by the United States Supreme Court, we, in Kansas, came definitely to the conclusion that though our intangible tax law did not provide for a low millage rate on shares of national banks, nevertheless they were entitled to all of its benefits. Substantial refunds of taxes had to be made to all national banks. Municipalities that were dependent upon this tax revenue were left with inadequate funds to meet fiscal requirements.

State banks, sensing the unfairness that shares in national banks should be taxed at only 50c. per \$100 of value, immediately filed suits. Others protected themselves by protesting their taxes, but it was not until the fore part of 1929 that a case reached the Supreme Court involving the right to tax state bank shares at a rate in excess of that provided in the intangible law. D. A. Voran, for

himself and on behalf of 114 other persons similarly situated, all shareholders in a state bank of Topeka, instituted a mandamus proceeding against the county treasurer to compel him to accept and receipt taxes on their shares calculated upon the intangible property tax rate instead of the amount levied and assessed against its stockholders computed on the general tangible property or ad valorem rate of taxation. Plaintiffs' main theory was: it was manifestly unfair and discriminatory to tax shares in national banks at an intangible rate and to tax shares in a state bank at the general property rate. But the court, though allowing the writ of mandamus, based its decision on the premise:

"The lawful allowance for taxation of a deduction from the capital stock of an incorporated mortgage company of real estate mortgages that have been registered, as provided by chapter 273 of the Laws of 1925 (mortgage law), is a discrimination against the stockholders of national and state banks which are taxed under the provisions of chapter 276 of the Laws of 1925 (bank laws), and are not allowed such a deduction." (*Voran vs. Wright*, 129 Kans. 601—syllabus, paragraph 4.)

By this decision shareholders in all state banks had established a rate of tax on their shares not in excess of 50c. on each \$100.00 of value. Taxes on shares of stock in state banks prior to this decision, as we have stated, had been protested and were impounded by the various county treasurers. Refunds now had to be made.

So, with a beautiful beginning in 1925 and with disastrous consequences in 1929 municipal governments found themselves required to refund in excess of four and one-half million dollars of tax revenue to state and national banks. But the picture is not yet complete. Justice Harvey did not concur in the *Voran* decision and by way of innuendo said:

"Shares of stock issued by banks or other corporations are not 'mineral products' nor are they 'money' or 'mortgages' or 'notes or other evidences of debt'."

This, Justice Harvey stated, was decided by the majority of the court, and thus he says:

"We have, broadly speaking, two classes of property in this state: first, property which the legislature is not authorized to classify and tax as to class and, second, property which the legislature is so authorized to classify and tax. As to the first of these, the constitutional provision is now, as it always has been, 'that the legislature shall provide a uniform and equal

rate of assessment and taxation.' Since shares of stock issued by banks are not property of a kind which the legislature is authorized to classify and tax uniformly as to class, they necessarily remain in that general group of property respecting which the legislature shall provide a uniform and equal rate of taxation along with personal property generally \* \* \* and real estate." (130 Kans. 280.)

And again, in an earlier dissenting opinion, Justice Harvey stated:

"In what situation does this leave us? Simply this: Under our present constitution and statutes, and giving force to the federal statute (Rev. Stat. 5219), as we must do, we cannot have a valid tax (that is, one not unlawfully discriminatory) on any property in the state at a rate greater than that which can be lawfully made on the shares of stock of national banks. This, as we have heretofore seen, is measured by the rate provided by our statutes for the taxation of moneyed capital in the hands of individual citizens of the state which comes into competition with the business of national banks, none of which is taxed at more than the intangible tax rate of 50 cents per \$100 valuation. We all know, of course, that if no property in the state can be lawfully taxed at more than 50 cents per \$100 valuation, the functions, not only of the state but of every subdivision of it, supported in the main by our general property tax, will be seriously impaired."

The dissenting opinion of Justice Harvey brought alarm and consternation throughout the state. Shares of stock in banking institutions, as one could readily see, were not such property as the legislature could classify and tax uniformly as to class, but yet the Supreme Court had decided such property was, nevertheless, entitled to the intangible rate of taxation, and even the majority of the court has said:

"It is not seriously contended by anyone that shares of stock are within the definition given in the statute of money or credits, neither do they come under the heading of notes or other evidences of debt. They simply represent the proportionate interest of the holder in the earnings and the final distribution of the assets of the company, and not a distinct title to the money or property of the company." (*Voran vs. Wright*, 129 Kans. 612.)

The remarks of Justice Harvey were immediately followed by assertions from taxpayers that they would protest a tax on their real and tangible personal property in excess of the intangible rate. The tax situation in Kansas was in its greatest confusion. Gov-



ernor Clyde M. Reed immediately called a conference of the attorney general, tax commission, and eminent attorneys of the state and asked that the subject be given prompt attention and to advise him of the probable effect of the court's decision and Justice Harvey's remarks. On February 12th, 1930, the attorney general advised the governor in part as follows:

"Upon a careful study of the opinion of a majority of the court I think the statement and conclusion of Justice Harvey of the effect of the decision of the court is correct, and following that decision, the intangible tax statute, the mortgage-registration statute, and also the statute concerning secured debts, being chapter 327, Session Laws of Kansas for 1927, should be repealed, in order to avoid the effect of claims by property owners of the benefit of limitation of the intangible tax rate of 50 cents per \$100 valuation in the payment of taxes upon their property."

Following receipt of advice from the attorney general, the governor issued a call for an extraordinary session of the legislature to deal with the emergency confronting the state. The legislature met on February 27th, 1930. In addressing the legislature at the opening of the session Governor Reed said:

"It seems proper to add that before convening you in extraordinary session I further conferred with eminent lawyers both within and without the membership of these bodies, and in the main their opinions and advice coincided with that given me by the attorney-general and state tax commission as to the effect of this decision upon the whole question of taxation. Even if in the end our fears should be unfounded, we are undeniably facing the possibility of almost endless litigation on the question of what is a proper rate of taxation for the various classes of property outside of bank shares, whether state or national; in fact, the tax commission advises me that in several counties of the state taxpayers are moving to protest payment of the second half of taxes accruing in 1929. We seem to be facing the probability of endless litigation and unsettlement of revenues necessary to conduct city and county government, including the schools. Such a situation cannot be ignored by those in responsibility.

"With few exceptions the national banks are now paying taxes at the intangible rate of 50 cents per \$100. The difference in the taxes accruing from those banks at this rate and what would accrue at the ad-valorem rate in the various locations where the banks are situated is \$698,248.00. The state banks have now secured legal right to pay taxes upon shares

at the intangible rate. The loss in revenue to the various taxing units, calculated upon the same basis as stated above, amounts from this source to \$868,000; the aggregate loss in taxing revenues from these sources is \$1,566,248. (Note: only 1929 loss in tax revenue.) The loss of this revenue is most serious to local taxing units, and especially to school districts. But when this loss is coupled with the near certainty of an extension of litigation to include much other property, there seems to be no course open except to recommend repeal of the intangible tax laws, thereby leaving the way open to assess all property on the same basis. I do this with reluctance, for I am aware of the unsettling that will be produced by this action and the loss of such benefits as have flowed from those laws. I am especially reluctant to recommend the repeal of the mortgage-registration law, but I see no other way out of the dilemma."

The legislature had been in special session but a few days when I. C. Stevenson, a taxpayer, commenced an action of mandamus in the Supreme Court charging that he was the owner of real estate and on February 20th tendered to the county treasurer, as full payment for the second half of his taxes, a sum of money sufficient to discharge the taxes if computed at what is known as the intangible rate, and the tender was refused. The question suggested by Justice Harvey was thus directly presented to the court for decision. The decision of the court is all embraced within the syllabus of the court as follows:

"Shares of state bank stock assessed to shareholders take the intangible rate of taxation because, disregarding form and regarding substance only, the foundation for the tax burden which shareholders must bear consists essentially of intangibles which are classifiable under the amended constitution, and which have been classified and given a low rate by the legislature. Therefore, the difference in rate of taxation on intangibles reached for taxation through shareholders, and rate of taxation on real estate and tangible personal property under general law, does not constitute unlawful discrimination requiring real estate and tangible personal property to be assessed and taxed at the intangible rate."

The written opinion of the court was released on March 19th, 1930, but immediately following the arguments of counsel on March 5th, 1930, the court announced that real estate and tangible personal property could not be taxed at the intangible rate. The legislature had suspended its work for the court's announcement and immediately thereafter convened. The repeal of our moneys and

credits and secured debts laws followed. Our state senate voted for repeal also of the mortgage registration law, but the house of representatives refused to repeal this law by a narrow vote.

Before the legislature adjourned it revised our law providing for the assessment of shares in state and national banks, loan and trust companies by including therein also the assessment of shares of stock of mortgage and finance companies which had formerly been assessed on corporate assets. With this work done, the legislature adjourned.

Thus, with two-thirds of our intangible laws repealed, it was the common expectation of all that peace and tranquility would now reign, but lo and behold, litigation sprang up anew! A bank, a mortgage company, a trust company and a holder of withdrawal shares in a building and loan association filed suits, contending that a deduction must be made in the assessment of their shares to the extent of exempt or otherwise taxed securities owned by the corporations. These plaintiffs contend that the new share-tax law, like its predecessor, provides a tax on their shares in name only. They rely on *Stevenson v. Metsker*, 130 Kan., and quote from it freely: "The essence of a thing is its true nature which classifies it"; "The name of a thing does not change its nature"; "In taxation we penetrate to essence, and if in final analysis that which is assessed and taxed consists intrinsically of intangibles, the burden of taxation may not be made greater by sticking the bark of terminology" (page 260). From such expressions made by the court, these plaintiffs contend that the assessment of their shares must be made on the basis of taxability of the corporation's property. Thus corporation property, consisting of registered mortgages (not otherwise taxable), federal securities, municipal and state securities, are all non-taxable, and the same must be deducted from the assessment of shares, even though the present statute provides they shall be valued on capital, surplus and undivided profits. These cases will be heard by the Supreme Court on November 5, 1930. We make no prediction of the court's decision. These cases have been referred to for the purpose of showing the consequences to which our intangible tax laws in Kansas have led us. It is anticipated that the litigation referred to will hasten the death knell of our surviving mortgage-registration law.

So, after five weary years, blossoming in the beginning with a beautiful scheme of taxation of intangibles at a low millage rate, the way since that time has been fraught with litigation and trouble. Our moneys and credits and secured debts laws have been discarded. Our mortgage-registration law is now weakening under pressure of threatened destruction. The state and its various municipalities have set about to recoup their lost tax revenues from that property which must inevitably pay, real estate and tangible

personalty. Whereas it was hoped that our tax base would be broadened by providing a fair tax on intangibles, such laws to this end have been defeated. Our tax base is again restricted and now over the horizon a new hope shines forth—an income tax amendment. We have high hopes that this will solve our tax dilemma, but in this the people must say, at the forthcoming general election on November 4th, next.

CHAIRMAN SMITH: At the last session of the Kansas legislature a tax code commission was created, composed of five members, to make a study of the tax laws and constitutional provisions of the state of Kansas, as well as of other states, and to report to the governor the result of its investigations and conclusions. We are fortunate to have a member of the commission here today and it now gives me pleasure to present Mr. Harold T. Chase, editor of the *Topeka Daily Capital*, who will talk on the report of the Kansas Tax Code Commission.

## THE REPORT OF THE KANSAS TAX CODE COMMISSION

HAROLD T. CHASE

Editor, *The Topeka Daily Capital* and Member of the Commission

Kansas for more than a decade has been going through an experience of heart searching in relation to taxes, similar to that of many states, under an outworn constitution on that subject. Many times its state tax commission had urged upon legislatures submission of an amendment liberalizing the taxing power of the legislative body, but without avail until 1924, when such an amendment was adopted by the people.

The difficulty, as all tax students appreciate, relates primarily to the constitutional requirement of uniformity in tax levies. The Kansas constitution, unchanged in its tax clause since 1861, when Kansas was admitted as a state, until the action of 1924, had just eleven words on this subject, apart from permission to exempt certain property from taxation. It declared: "The legislature shall provide for uniform and equal assessment and taxation." Nothing more.

Amendments regularly proposed to legislatures by the state tax commission met the issue squarely as has been done by many states, by confining "uniform and equal" to property of the same class. Such amendments were obnoxious to legislatures as too far-reaching in their scope. The amendment ultimately adopted, in 1924, provided only as additions to the eleven words, "except that mineral products, money, mortgages, notes and other evidences of debt may be classified and taxed uniformly as to class as the legislature shall provide."

Pursuant to this new authority the legislature in the following year relieved mortgages and other intangibles from the general property tax and in lieu thereof provided that mortgages should be subject to a filing fee of 25 cents on the \$100 and that other intangibles should pay a flat tax of the same amount. Two years later, feeling that more revenue should be obtained from intangible property, the legislature increased the latter tax to 50 cents on the \$100, letting the mortgage-registration or filing fee stand.

Without going into the effect of these statutes in a revenue way, it is sufficient to say that the intangibles act induced national banks to protest their own assessment by the general property tax as being contrary to Sec. 5219 of the federal statutes restricting states in taxing national banks to no higher rate than the tax on competing moneyed capital. Suits were brought in the federal courts and the banks were upheld in their contention that they could not be taxed at a higher rate than the intangible rate.

Following this decision state banks, more numerous than national in Kansas, brought actions in the state courts for like treatment under the state constitution with national banks, and they in turn were sustained by the state Supreme Court.

Thus the state and local taxing districts were unexpectedly deprived of a large revenue, the legislature was called into special session, and in February, 1930, the intangible statute was repealed, the mortgage filing fee being left untouched at 25 cents on the \$100.

It was in the midst of this tax turmoil that the legislature, at the suggestion of the governor, in March 1929, created a special interim commission to report to the governor not later than December 1, 1929 on the state tax system in general, with such recommendations as it deemed suitable.

The commission by the terms of the legislative act was to be appointed by the governor and to consist of one member of the senate, two members of the house and two citizens from the state at large. It was appointed and entered upon its duties in the last week of April, 1929, and handed its report to the governor on December 1 following.

On the day of organizing, the commission members individually jotted down for the clarifying of the scope of its work their tentative views of the essential questions involved. No great difference existed in these individual programs. They covered three main phases of taxation: (1) Sources of revenue; (2) Administration of the tax system, in assessment, collection etc., and (3) Control of costs of government.

Following organization the commission then subdivided these subjects. Under sources of revenue special topics defined were income taxes, severance taxes of mineral products, various types of sales taxes, taxes of intangibles, and general property taxes. Under

this head also was included the allocation of revenue from new sources. Other topics were taxation of banks, of insurance companies, of corporations and of motor vehicles. Each of these topics constituted an independent chapter in the ultimate report of the commission. Inheritance taxation, poll taxes and fees and licenses were minor topics, already included in the tax code of the state. Though not strictly within the scope of the inquiry as defined by the legislature, some nevertheless pertinent topics were taken up, as incorporation laws and departmental reorganization of the state government. Constitutional amendments were considered and reported on, this having been specifically called for by the legislature.

After outlining the scope of its work the commission in June held public meetings in ten representative cities of the state, the object of which was to obtain expressions generally from the public as to complaints, criticisms or suggested plans of tax revision. These meetings were fairly well attended and a variety of views were heard such as would be expected of such popular gatherings. Some light was thrown upon conditions differing in different localities as they were affected by the existing taxes and would be by some of the major proposals.

Owing to the time limit set by the legislature upon the work of the commission it remained within the state and made its study of the problem in an office provided for it in the State Capitol. After two months of almost daily meetings the commission transmitted to representative organized interests of the state an outline of the topics under consideration, inviting them on appointed days to meet with it at the Capitol to make such suggestions as they desired. Such meetings were held and several important interests were present through officials or counsel and made in some instances carefully considered printed suggestions which the commission found of genuine value. The organizations included insurance companies; banks, mortgage brokers, building and loan associations and other moneyed institutions; railroads; other public utilities; farm organizations; chambers of commerce; merchants' associations; coal, gas, oil, lead, salt and zinc companies; and labor organizations. The greater part of a week in September was given to these meetings.

After the meetings with organized interests the commission devoted itself to the compiling of data and the writing of its report. While there were differences of opinion among the members it was able to reach unanimous definite recommendations. In drafting the report the effort was made to present both sides of every major question, with the final conclusion of the commission. In the course of the study of data assembled from many sources, among which were the reports of the National Tax Association over a long period of years, the reports of some twenty-odd state tax code

commissions, government statistical material, special investigations made for the commission by Prof. Jens Jensen of the State University and Prof. Harold Howe of the State Agricultural College, as well as other investigations made by economists in recent years into specific questions of taxation in Kansas, members of the commission found their own preconceived views modified to some extent. On this point it may not be out of place to state that there was a desire on the part of several members of the commission to find a satisfactory type of general sales tax, but after repeated discussions on this subject the only recommendation it was able to make was a possible selective sales tax, covering articles or interests which are good tax bearers, such as commercial entertainments, tobacco, cosmetics, confectionery, jewelry, soft drinks and the like, or in a word, "nuisance taxes".

Coming now to the recommendations in the report, as to revenue measures the commission recommended a graduated personal and flat corporation income tax, both without exemptions, with rates ranging from  $1\frac{1}{2}$  to 5 per cent on personal incomes; a severance tax on oil and gas of 2 per cent ad valorem, an increase of the inheritance tax rates, which in Kansas are the lowest in states levying such a tax, retention of special taxation of intangibles, taxation of common carrier busses and trucks on the basis of capacity plus mileage, on other trucks operated for hire a franchise tax, abolishment of the constitutional \$200 exemption of property, and reconsideration by the legislature of existing exemption statutes, and the increase of certain fees, state and local, to cover the cost of administration.

As to the allocation of revenue from new sources, it was recommended that this revenue be distributed among the school districts of the state, in proportion to enrollment, with a provision limiting the school levies correspondingly, this appearing to be the most likely and available plan to avoid the temptation to taxing bodies of merely adding new revenues to the aggregate of taxes.

Taxation of insurance companies was found to be chaotic in Kansas, particularly of domestic companies. The commission made an extended inquiry into insurance taxation and held full conferences with representatives of the domestic companies. It has been the practice in Kansas to tax foreign companies 2 per cent of gross premiums less dividends and reinsurance premiums received from companies authorized to do business in the state. The commission favored retention of this plan, but making the latter deduction on reinsurance premiums paid to instead of received from other companies. Domestic companies have been taxed at the general property tax rate on the excess of their assets over liabilities. This results in a disproportionately under-tax of home companies. The commission recommended a 2 per cent gross premium tax on the

domestic companies with the same deductions as to foreign companies, plus a deduction of the first year premium. It is believed that the added deduction will afford an adequate advantage to domestic companies. It also recommends the same tax on the so-called foreign reciprocal companies as other foreign companies.

In the opinion of the commission the most constructive work in taxation is to be done through administration. On its invitation a committee of the county clerks, appointed by the president of the State County Clerks' Association, met with it to confer on local administrative problems. Frequent consultations on the subject were held also with the state tax commission. The upshot of these conferences was the following recommendations relating to administration:

To make the county the assessment unit; to abolish the township assessor who in Kansas exercises that function ex-officio as township trustee, and the appointment of all assessors by a county assessor, himself appointed by the county clerk and county board, subject to approval by the state tax commission and with power of removal in that commission. In assessment of real estate, which has been heretofore made every fourth year, it was recommended that there be continuous or annual reassessment by a county board of real estate appraisers of three members, appointed by the county board of commissioners, subject to approval of the state tax commission, this board of appraisers to give their full time to the work in counties of 40,000 population and over, at annual salaries, and in counties under 40,000 population to give such time as may be necessary at a remuneration of \$10 a day for time actually employed.

Another administrative recommendation of the report relates to state supervision over local expenditures. To this end uniform accounting is recommended, to be prescribed for the various taxing districts by the state accountant; annual compulsory audits, preferably by the state, of all local offices having to do with collection or disbursement of taxes, and a compulsory budget by every taxing authority with public hearings prior to any levy made.

In the course of the study of the tax question in Kansas the commission became interested in the Indiana state supervision of local levies and bond issues, and was fortunate to have a full day of conference in Topeka with Mr. Philip Zoercher, for many years a member of the Indiana State Tax Commission, on this subject. The commission in its report recommended the adoption of the Indiana plan of informal hearings by the state tax commission on appeals of as few as 10 local taxpayers with final authority in the commission to veto a local levy or to reduce it, but with no power to increase such levy. In the matter of bond issues, our recommendation differed from the Indiana plan, inasmuch as no taxing body



in Kansas has authority to issue bonds without previous submission of the proposal to the approval of the people concerned in a bond election. The commission therefore limited its recommendation in this respect to the right of a hearing of aggrieved taxpayers, with no further authority in the state commission than to make a recommendation, which recommendation, if adverse to the proposed bond issue, should be printed on the ballot for the information of the voter, and in that case an affirmative vote to be required of a majority of the vote cast at the last preceding general election.

It will be seen that the commission is strongly for greater rather than less state supervision in tax administration, notwithstanding an undoubtedly powerful sentiment for local home rule. This is one of the reasons why in its recommendation as to allocation of revenue from new sources it did not propose to give this revenue to the state, nor did it make any recommendations looking towards independence of the state in sources of revenue, which further removes the state from influence in supervision. It believed the state and localities should be linked together rather than segregated in taxation, being largely influenced in this conclusion by the fact which stares out of all the tax figures that it is not the state but the localities that are chiefly accountable for extravagance and for increasing taxes.

Finally the commission recommended a more drastic amendment of the constitution than any which had heretofore been proposed, to liberalize the power of the legislature, so that it may make the largest use of modern ideas in taxation, broaden the base of taxes and bring into the system all sources that may contribute to greater equity in distributing the burdens of the support of the government. The recommendation in this respect was that the present provision of the constitution be repealed and that in lieu thereof the article on taxation instead of reading as now, "The legislature shall provide for uniform and equal assessment and taxation," should read simply: "The legislature shall provide for assessment and taxation."

In concluding this review of the work of the Kansas Tax Commission I can perhaps not do better than to quote briefly from its report a statement of the particular need in Kansas of tax revision. Says the report:

"A tax system based in effect upon tangible property works a special hardship on the chief interest of such a state as Kansas, which is the land, and upon the home owner. There is a discouragement of investment both in homes and in land. A tax system that neglects tax-paying ability derived from salaries, wages, earnings of a professional class and large groups of persons not owners of land or homes, must eventually destroy relatively the value of the latter forms of property. It is to the interest of Kansas on the contrary to encourage land owning and home building by bringing

in all forms of property and earnings to share the burdens of government."

CHAIRMAN SMITH: This concludes the program for the morning, and the next thing in order will be a discussion of the papers. We hope you will feel free to ask any questions of the speakers, but in addition we want a discussion and the opinion of others. When you rise from your chair please identify yourselves by state and name, and speak so that the reporter may get all that is said, also come forward, please. No doubt you are aware of the fact that a transcript of these proceedings is being carefully made, and later on they will be reproduced in book form.

The meeting is now open for discussion.

EDWARD P. DOYLE (New York): Mr. Chairman, being a tax payer and not a tax gatherer I would like to give a word of warning to those who are revising the tax statutes and trying to get more revenue for the publicity-loving and vote-seeking city and state administrations.

In 1929 and 1930 I went to Europe for the purpose of investigating tax systems and the dole system and governmental housing.

I found in Vienna that private property in buildings and dwellings was entirely confiscated. They take the entire rent.

In Berlin and Paris and Brussels, and all the way up to Glasgow, in all the large cities, the rents of private dwellings are practically confiscated. The Belgian consul in the United States, while going across to Europe, told me he sold his palace in Brussels, which cost him one million francs when the franc was worth 19 cents, for a million francs when the franc was worth 3 cents.

The former residence of the Lord Provost in Glasgow cost \$125,000 to build, and the lady who owned it bought it for \$5,000.00. She was assessed, as the practice is in Great Britain, on the rental value of the house, which was fixed at \$1,000.00 or 200 lbs. sterling, and her tax was 103 lbs. as an owner and 97 lbs. as an occupant, so the tax took the entire rental value of the property.

I am afraid of the result if you continue this endeavoring not to satisfy the people because they never ask for anything. All these so-called asked-for appropriations are the result of propaganda, of people who want positions, or certain classes of the community who always have their hands out. None of this asking for things occurred until the change of the character of our immigration in 1898, when the people from Southwestern and Southern Europe came over here. The other immigrants who came here who are hard-working and industrious and thrifty people neither asked for nor will they take charity. A great many of them passed through the seaport towns and went west to build up great and prosperous communities. But, in 1898 the character of immigration changed,

and we began to get those people from Southern and Southwestern Europe, whose hands had been out always for charity, and who had been supported by government, who did not support their governments, did not support their churches, did not support anything. They were askers instead of givers; and they stopped in the seaport cities, and having an enormous voting power they changed the entire character of our voting population.

We have in New York City today almost a confiscatory tax. Next year it will be \$2.85 on a full valuation. Now, on the basis of our rental proposition there, in the building that has no service we figure 10 per cent on the value of the property and this will take \$2.85 out of that \$10.00. We have in New York City 434,420 one and two-family houses. These houses are already being confiscated. The savings banks are not foreclosing mortgages, the building associations are not foreclosing, and insurance companies are not foreclosing. There were 160,000,000 dollars of uncollected taxes and assessments on the city's tax books on the first day of January of this year.

I think what we should do is not form new methods of taxation or try to seek new sources of revenue, which would be swallowed up by new functions of government, but as Doctor Johnson suggested last night, is to make everybody conscious that they are paying at least part of this tax, even though they are tenants, and try to stop this tremendous expenditure of money. One of the items in our budget is seven million dollars for one of our colleges.

CHAIRMAN SMITH: Mr. Doyle, you have one minute more.

EDWARD P. DOYLE (continuing): And yet in the largest college there isn't a Christian in the college. I don't blame the Jews for taking advantage of this higher education. They are doing it all over the world. But, you see the great mass of people are not benefiting by these additional expenditures. If we go to a hospital we all pay for nurses. We do not want free hospitals and free nurses and free medical attendance. It is only a certain class of our people, and it is done entirely by propaganda. Of course, one trouble is, we are giving too many people higher education. We have in New York City 4,500 bricklayers and 19,000 lawyers. The lawyer's wife looks out and sees the bricklayer's wife with a Rolls-Royce or a Lincoln, and immediately she wants one too. Her husband unable to get it by practicing law, gets it by some new department of government in which he can get a position. The same with the doctors and dentists. We have too many of them. They get up some new function of government whereby they can get positions.

CHAIRMAN SMITH: Your time has expired.

PHILIP ZOERCHER (Indiana): On the question of intangibles I am going to suggest to you a plan that we had proposed in 1919, when we revised our tax laws in Indiana, but which the politicians became afraid of and did not adopt.

We have in our constitution, of course, that "equal" provision, but the supreme court of our state has decided that the question of taxation has two elements, one the rate and one the valuation. The rate, of course, after the valuation is fixed, must be equally applied to all, and just valuation must be made as to property. With respect to the word "equal", as used there, the court has in a number of cases decided that where all in the same class are treated in the same way, the equal provision of the constitution is complied with. And this is what we proposed so far as credits and intangibles are concerned. There was a provision in the law that set out that the tax payer should list all his credits, and then of course there was also a section defining what credits were. Then it further provided that after he had set out all of his credits as intangibles, if he filed an affidavit that he had listed all his credits he would be allowed a deduction of 75 per cent, and the remaining 25 per cent shall be the value for taxation purposes.

The next section provided that if the taxing officer found or had evidence that the tax payer had perjured himself, and filed a written affidavit that he had not listed all his credits, he would forfeit his right for a deduction, and a penalty of five per cent, in addition, added thereto, not as the end of a lawsuit but by the taxing officer himself. If a man had \$100,000.00 on deposit in a bank or in building and loan stock, or any credits, and he listed \$80,000.00 thereof, thereby conceiving that he might escape a tax on \$5,000.00, that he would then be taxed on \$20,000.00, and if the rate in that community was three per cent he would pay a tax of \$600.00, while, on the other hand, if he listed all his credits it would be \$750.00. But, by reason of filing a false affidavit, the tax would be \$3,000.00 and the penalty \$5,000.00. In other words, \$8,000.00 would have to be paid by him instead of \$750, and we believed if that law had passed it would have placed on the duplicates of the state of Indiana over a billion dollars. Of course, we took away the right of deducting debts from credits because we believed that anybody who had credits and would be taxed on a 25 per cent basis, and all other property on a true value basis, that is all the concession he should ask.

At the last session of the legislature one of the legislators came to see me and submitted a list of what we sometimes designate as nuisance taxes, and I said to him, "Why don't you go back and figure up those three sections that were eliminated in the bill we prepared in 1919?" Before I knew it, it was introduced. Of course, if he had come to see me and said they were going to introduce it,

I would have suggested a few changes. In that bill there were listed, as one of the credits, real estate lease contracts with options to buy. That was designated as a credit. Of course, all the real estate men got back of it and defeated the bill. It would not have been defeated if it had not been for that clause; and that clause went in without my suggestion, but the chairman suggested it should be included, it should be considered as a credit, and as a result the real estate men succeeded in defeating the bill, although in the House the Ways and Means Committee unanimously recommended the passage of the bill.

The suggestion was made then that that, of course, would affect bank stocks. Of course, even if bank stocks had been given that same consideration it would have still added greatly to the duplicates in the state of Indiana; but I think, as far as bank stocks are concerned, after the remark that Governor Reed made last night, what ought to be done is for Section 5219 to be amended to read simply this, that the states shall assess national banks the same as state banks. This adding of money capital should be omitted from that amendment. And as to the further statement that the American Bankers' Association simply have control of the Senate and House committees, every taxing officer here should go home and use his influence in his own state and such ownership in the United States Congress would not prevail in the future.

H. C. MCKENZIE (New York): I would like to ask Doctor Loeb a question. Did I understand you to say that the school tax in Missouri ranged from 2 mills to 3½ mills on assessed valuation, and that the state made up the balance?

DOCTOR ISIDOR LOEB: The plan provides, that for the first four years of their proposed period the local districts must levy a tax of 20 cents, and then there is added to the proceeds of that tax what they get from school funds, and the amount is deducted, in the case of elementary districts, from \$900, and the state makes up the balance, and then that is increased at the fourth year; the minimum is increased from \$900 to \$1500.

MR. MCKENZIE: Have you considered what effect, if any, that will have upon the assessment of property?

DR. LOEB: It simply puts a premium upon all assessments, because the lower the assessment the lower the yield of the local tax, and inevitably the greater the amount from the state. It puts a premium upon lower assessments and hence will increase the inequality which already exists.

WILLIAM H. BLODGETT (Connecticut): I was greatly interested in the paper Mr. Randell read, setting forth the bank tax situation in Kansas. I should be interested now in making the inquiry as to

who held the bag in Kansas when the national banks escaped the tax burden? And I should be just as much interested to learn who held the bag in Wisconsin. That seems to me to be a pertinent inquiry, because we all agree, as I understand it, that the real estate of these states is sufficiently taxed and generally does hold the bag. That seems to me to be pertinent. It is a phase of the question which no one had discussed; and I am going to ask Mr. Randall, if he is present, who in Kansas held the bag and paid the amount that was lost through the failure to collect the tax on intangibles in Kansas.

MR. RANDALL: Mr. Blodgett, the burden naturally had to fall on that property that was visible. It fell on real estate and it fell on tangible personal property. I might say that although we have had a more or less disastrous effect as a result of our intangible tax law, it has really afforded some pleasurable things. As you no doubt know, we have had very enjoyable trips to Chicago, and we have gone to New York, and gone to Washington, so those, of course, have been enjoyable.

MR. BLODGETT: I wonder if I may ask, if there is any one here from Wisconsin, where they had trouble, who will tell us who paid the bills in Wisconsin?

EDWARD L. KELLEY (Wisconsin): The result in Wisconsin is practically the same as has been reported by the gentleman in Kansas.

MR. BLODGETT: As to Minnesota, may I inquire if there was any provision made in the law for anybody except real estate to withstand the shock? Is there any one from Minnesota who could answer that question?

W. K. MONTAGUE (Minnesota): Minnesota is in a little different situation. In Minnesota, largely through duress, the legislature has made an agreement with the banks whereby a part of the bank tax has continued to be paid, so up to the present time our system has not been upset.

MR. BLODGETT: In the event it should not be paid in your state, can you tell where the shock would fall?

MR. MONTAGUE: It would fall on the other sources of revenue, largely the ad-valorem tax on real estate and tangible personal property, as in the other states.

MR. BLODGETT: I will ask Mr. Long of Massachusetts who holds the bag in his state.

HENRY F. LONG (Massachusetts): Mr. Blodgett, in Massachusetts when any one ceases to pay taxes because of these reasons,

the people demand less of government and we have less appropriation.

MR. BLODGETT: That sounds like an answer of the committee of the American Bankers Association. I should expect that answer from Mr. Cooke.

They have had a great reduction in New York State. I wonder who holds the bag in that state.

EDWARD P. DOYLE (New York): I have a personal friend here—I think you know him, too—who will make good any deficit in any state where there is serious hardship to the property owner!

MR. BLODGETT: I am very glad, indeed, that some of the members are reputed to have that spirit of philanthropy. But, I say it is not a humorous thing, a tax conference where we are discussing this subject in the light of these realities, particularly those realities that come to the taxpayer, where the results are social in their effect. If they are not conscious of it now, I venture to say they will be conscious of the increase in taxes and the legislative erosion that is going on in many states. You all say it is real estate and tangible personal property that must pay for it. That is true, but largely the burden falls on real estate, and we might say at least 80 per cent—that is, if the banks should not pay, 80 per cent would fall on the real estate owner. It is a high percent generally, unless other provision is made. When this occurs, if the legislature would meet and impose additional taxes on other bases or groups of taxpayers, other than the farmers, and other than the home owners, some time in the world, I would like to see that day dawn. The fellow who happens to hold a little place in which to live, for his wife and babies, and the farmer who holds his farm, and the manufacturer who, in my state, has a factory, are always eternally filling that bag and nobody making other provision.

CHAIRMAN SMITH: We have a few minutes left. May we hear from somebody else?

FRANKLIN S. EDMONDS (Pennsylvania): I have been very much interested in the discussion this morning. I think we are all indebted to the four speakers for the excellent papers they have given to us.

Now, I want to put a question to Mr. Loeb, who represents the Missouri Tax Commission. As I understand the situation, you have 7400 school districts there, the majority of which—I think you said 75 per cent—are single-building, single-room school houses. Have you considered at all the advisability of attempting to consolidate, getting a broader base, instead of asking for a larger share of taxation from the state, and to see whether or not the locality by putting in operation economies cannot furnish a better article in education

and at the same time for a lower cost to particular sections of the community that may not be able to withstand the budget?

To my mind the spirit of this meeting, as it started last night, is along the line of expenditures. I do not believe it means necessarily the giving up of the heart of the program the state has adopted, but I think it does mean such readjustment and such reorganizations as will lead to carrying out that program with a higher measure of economy.

Now, we have had the reports of two state tax commissions today on revising their systems. Have we any suggestions from them which look toward consolidating, and by consolidating, reducing costs? I think that question is particularly pertinent with Missouri, because Missouri gave us facts.

DR. LOEB: In the first place, I am not a member of the Missouri State Tax Commission nor of the State Survey Commission, but I wish to answer the gentleman's inquiry by stating that the State Survey Commission emphasizes the enlargement of the school district. It holds out inducements. I agree entirely with what the gentleman has said, but my criticism of the commission's plan is that it leaves it in the last instance entirely voluntary with the voters of each small school district, whether they will come into the enlarged plan. The fundamental crux of the whole difficulty with our rural school problem in Missouri is the small district, and there are, as I said, 7400 out of the 7800 that are one-room, one-school districts. They have not enough assessed valuation; they have not enough tax rate; and they have not enough population to justify it. It is an extravagant and inefficient system.

Now, it is difficult to convince the one-room school districts, of course, that it is a desirable thing to enter into an enlarged program.

The commission's plan briefly is this: They offer this \$900 minimum to every school district in the state, but it says, although after the four-year period when this minimum is enlarged to \$1050—gradually going up to \$1500—"You cannot receive the additional \$150 if you have, by your voters, rejected the plan of enlargement," and which they propose to introduce through the creation of a kind of board of education.

I am in thorough accord with the commission's plan to bring about the enlargement, but I know enough of human nature to believe that their plan of guaranteeing \$900 to these small districts, under any and all circumstances, means that the small district will be entrenched in Missouri, just as it has been entrenched in New York and in every other state where it is left entirely voluntary with the voters.

MR. EDMONDS: I think that the alternative plan proposed by the



commission, which is, as I understand it, that out of the state treasury there should be given a varying fund for each school district—one will get \$100, one \$125, one \$150—in order to make them up to the \$900 average—my own private feeling is that that plan is unconstitutional under most of the constitutions under which we operate. And I confess that when the problem of the small school district is being presented as urgently as it is, that this is the time to undertake a reorganization; and when there is a desire for economy in administration, which is being felt at the present time when all taxes are high, is the time to get rid of these petty districts, which may have been, as was said by a speaker at the conference last year, appropriate in the horse-and-buggy age, but not appropriate at all in the modern electrical age. I am a little surprised that that note has not been stressed by the state survey commissions. It probably is stressed in their report. My own feeling is it ought to be stressed because it is in accord with the best way of securing adequate money for the support of government and at the same time a relief for the taxpayer from undue taxes.

FRANK R. GRANT (Missouri): Gentlemen, in discussing the matter of the school district organization, while I have my residence in the state of Missouri, my business also takes me into the state of Kansas. I just want to illustrate by a situation that exists in one of our so-called consolidated rural high school districts in the state of Kansas, in Johnson County, which adjoins Kansas City, Missouri.

That high school district has an assessed valuation of some \$10,000,000. It has an enrollment of approximately 350 students in the high school. A few years ago when the district was organized it voted bonds in the sum of \$70,000 to purchase several acres of land on which to build the building, which is modern in every respect, to take care of these students. The control of that school district was directed through a few of the voters out of all who lived within the district. This handful of voters who gathered, possibly 100 or 150 of them, elected their board of directors, one man each year. These men were business men of the average type, who were conducting this big business. They finally suggested, and had votes to put it over had it been submitted, a bond issue of \$150,000 to build an addition to this original building, where the land itself only cost \$70,000, to take care of an additional enrollment of 30 students. The people in that school district then became aroused to the point where they began to make inquiries into what was going on, and they became interested in the business affairs of their district, and at the next annual meeting of this high school district, instead of 100 or 150 of the voters attending, there

were 1200 assembled to elect a new director of that board. They selected one of the best known lawyers in the state of Kansas to serve on that board. He was elected and went into session with them. Notwithstanding the fact that they did have a small increase in enrollment, and did have some need for larger quarters, they had an assessment for high school purposes of 72 cents on each \$100 of assessed valuation, this new man figured they could provide the necessary additional facilities for the increased enrollment and employ additional teachers and raise the pay of every teacher and employee of the high school district and cut the levy from 72 cents to 61 cents.

I am wondering after all, when these situations in all the states absorb the major portion of our taxes, whether the responsibility for the extravagances and inefficiencies cannot be laid right at the door of the voter himself.

That was a case of the people selecting men of the right type to run the school; they did it on a more efficient basis and a much more economical basis.

The gentleman from New York who spoke today, and also the gentleman from California who spoke last night, struck the keynote of the whole trouble when he said we do not pay enough attention to expenditures but leave the solution of all the problems to the men who are gathering in the taxes. It is in a case like this—and the schools are the important part, because of the large proportion of the expenditures that they require—that each one of you and your families are responsible for many of the inefficiencies that creep into the school system and therefore absorb the largest part of the public expenditures.

I thank you, sir.

F. W. RAGGIO (Louisiana): In answer to the gentleman from New York, relative to the immigration from Southern Europe, I will say that I hail from a state where nearly ninety percent of the people are of Latin descent. Being such, combined with the delightful semi-tropical climate and fertile soil, we practice our slogan of "manana", meaning "tomorrow"—*that is, we did.*

Things have changed in Louisiana in the past two years. Our brilliant young Governor has awakened us, for we are doing things as never before in the history of our state, especially for our schools and roads.

We have a system of consolidated schools not excelled in the United States, free night schools, and free school books, regardless of denomination. Our state aid per educable is \$12.00, combined with the one-cent gasoline tax, disbursed by the State Board of Education to the poorer parishes (counties), I believe solves our school problem.

We are building 3,000 miles of paved roads, to be completed in the next two years, also twice that much mileage of gravel roads, which are amply taken care of by our five-cent gasoline tax.

L. D. THOMPSON (Missouri): I just want to speak to the point that the gentlemen from Missouri and Kansas brought out. I don't believe the convention got that important point, that of collecting delinquent taxes. The state of Missouri has fifteen millions of delinquent taxes. I suppose every one of your states is in the same rut, many of you in deeper ruts and some of you not quite so deep. Why not recommend to the people at home, when we go back to our respective states, that they first pass laws to enforce the collection of the taxes that are now assessed and uncollected?

CHAIRMAN SMITH: It is now after twelve o'clock. If there is no further discussion we have some announcements to make.

PRESIDENT FAIRCHILD: May I ask your indulgence for two announcements. Please do not forget that the secretary desires to receive at once the names of the members of the resolutions committee from each of the states. Those state delegations which have not yet attended to that are urged to do so at once.

I also wish to repeat the notice of last night urging you to purchase your tickets to the banquet at once. It is a big undertaking for this hotel to arrange the affair, and the hotel management certainly must know about how many it has to expect at that banquet. Thank you.

MR. EDMONDS: Mr. President, may I make two announcements? First, will the Pennsylvania delegation meet here on the adjournment of this morning's session so we can elect a member of the committee on resolutions. Second, our budget officer, Mr. Townsend, who is present at this convention, has brought with him a number of these pamphlets [exhibiting pamphlets] telling of the reorganization of the state's fiscal system. They have been placed on the desk. If any of you are interested, help yourself to a copy, and if you have any questions, Mr. Townsend and his associates will be only too glad to answer.

(Motion to adjourn)

(Adjournment)

## THIRD SESSION

TUESDAY AFTERNOON, OCTOBER 21, 1930

R. WAYNE NEWTON, Director of Taxation, Michigan State Farm Bureau, presiding.

CHAIRMAN NEWTON: This session is devoted to the subject of farm taxation under the heading "The Tax Problems of the Farmer."

One year ago at the Saranac Conference two of the sessions were devoted to farm problems. That conference did two things. It clearly presented the need of further consideration of the problem, and it seemed to me that it gave in a rough outline what that problem might be, and how it should be approached. Today we are going one step further with this problem and taking up for more detailed consideration the steps that have been suggested by some as having merit as farm-tax relief measures. I believe that you will find this program at least equally as interesting, and no doubt more so. Before introducing the first speaker, President Fairchild has an announcement.

PRESIDENT FAIRCHILD: Ladies and Gentlemen, as I have already told you, it is my duty to announce the appointment of two committees of the conference, the committee on resolutions and the committee on credentials, and I take this opportunity to announce that the committee on resolutions will consist of Henry Long of Massachusetts, chairman, and one member from each state delegation, those members to be chosen by their respective delegations. All states who have not yet chosen their representative should do so at once and notify either Mr. Long or the secretary of the conference.

The committee on credentials hasn't a very laborious task, and I have thought that a committee of two would be sufficient, and have asked Mr. Tobie of Rhode Island to serve with W. G. Query, the secretary of the conference, as our committee on credentials.

Now, if you will permit me to step out of my character as chairman of this conference, and appear before you as President of the National Tax Association, I have a brief announcement to make which has to do with the nomination of officers for the coming year.

As you are aware, during the past year this Association was incorporated, and we are now for the first time proceeding as a

corporation, duly chartered under the laws of the District of Columbia. If this were a business corporation I presume the procedure would be for the officers of the corporation to bring in a slate of officers for the coming year, to be voted on by the members or the stockholders, and I am informed that legally that is the normal procedure. It has not seemed to me and the other officers that that method was quite appropriate to such an organization as this, and I have therefore decided to proceed according to our time-honored custom, and appoint a committee on nominations. So, if there is no objection from the Association I should like to announce the following committee on nominations. Before announcing the names I should probably further explain our custom. It has been the practice to appoint a committee of five members and to call upon the services of the ex-presidents of the Association. Those gentlemen are for very obvious reasons eminently fitted to serve in this capacity without embarrassment to themselves or others, and I think that good custom should continue to be followed. There are present with us now, so far as I have been able to learn, two ex-presidents and two others are expected to arrive at any time. I have therefore appointed these four, plus an additional member, with the understanding, which I hereby announce, that in case any one of these four ex-presidents should not finally appear in time to function, I reserve the right, should that occasion arise, to increase the committee to the number of five by making other appointments, which I will announce at the first opportunity.

The committee, then, on nominations is as follows: Chairman, William Bailey of Utah, George Vaughan of Arkansas, Harley L. Lutz of New Jersey, Mark Graves of New York, and C. S. Lamb of Pennsylvania.

There are certain announcements regarding the local entertainment, which ought to be at least repeated and emphasized. I see Mr. Cady is here. We are greatly indebted to Mr. Cady for the arrangements made for our comfort, which we already know have been excellently made and the results of which we are already appreciating, and I know you will be glad to see Mr. Cady face to face, those of you who have not done so already. I will ask him to make such announcements as he cares to at this time—Mr. Cady.

THEODORE S. CADY, chairman Local Committee on Arrangements:

Gentlemen, my only word is to urge that you determine as soon as possible the number that will attend the banquet tomorrow evening. You are scattered in two or three hotels around the city, and the only way we can be fair to this hotel is to let them know, as soon as possible, how many will be at the banquet. They require some advance notice, of course. They are going to bear with us,

but tickets are on sale outside the door of this room, and we will appreciate your early purchase of those tickets.

We have been disappointed in that we have not had as many ladies register for the reception at the home of Mr. and Mrs. Jones this evening, and for the bridge luncheon Thursday, as we expected. There is no necessity for rushing to get those names in, except to arrange for transportation. All ladies are urged to register at the desk just outside the door if they intend to attend those two functions.

It is rather inappropriate to talk about golf this afternoon, with snow flying every few minutes and the sun entirely hidden, but we are desirous to know the probable number that will play golf tomorrow afternoon if the sun shines. That is in order to arrange for transportation to the club and return. Would you mind having a show of hands of those who probably will play tomorrow afternoon with favorable weather conditions. Just let me see your hands.

(Hands)

MR. CADY: There are not many here. There were a number playing this afternoon, but I think that this will give us an indication.

PRESIDENT FAIRCHILD: Thank you very much indeed.

CHAIRMAN NEWTON: In arranging for the farm tax program it was desired to bring before you the most authentic information that could be had, and of course that required finding someone that could present the farmer's own point of view most forcibly. The gentleman that we have chosen for that purpose qualifies most admirably. He has been a farmer all his life. He has earned recognition nationally as a farm leader, having begun organization work right back on the back roads, soliciting memberships. He is not unaccustomed to facing an audience that might at one time have been hostile.

I believe that the time has come, or at least is rapidly approaching, when the farmer's sentiment upon taxation has reached a sufficient point of crystallization, and the views of other people have reached a sufficient point, that the proposals that farmers have to offer may be considered as coming within the field where, at least, debate can be had in a pleasant way. And therefore it is a special privilege to introduce to you President Sam H. Thomson of the American Farm Bureau Federation.

SAM H. THOMPSON: Mr. Chairman, Ladies and Gentlemen: Before I attempt to discuss this question I want to make a short statement regarding our farm bureau studying the problems of taxation. Most of our states have tax departments which have been studying taxing problems for several years. There has been an insistent

demand coming from some states that the American Farm Bureau Federation join such states to study together the problems that concern different states, with the idea of arriving at some definite conclusions as to what might be done to get more uniform plans of taxation in the different states that might be beneficial, and, if possible, getting to a place where the burden of taxation was equitably distributed over all the people. We have for two years been having committees that have given their time and thought in the states and have come in and studied taxation from the standpoint of what has been done in the states, and also what might be done to accomplish and better those conditions.

As a result of their studies we have a committee composed of the chairman, Mr. Watson, from the Illinois Agricultural Association, who is director of taxation; Mr. Newton, from Michigan, who occupies the same position in that state, and who is chairman of this afternoon's meeting; Mr. White of New York, who has been associated with taxing bodies of that state officially, and also as president of the Farm Bureau and a member of our Board of Directors; Professor Brindley, professor of Economics at Ames College; and also our secretary, Mr. Windard. I am giving you this little background because the things we are considering are not being considered just by farm people alone.

We realize that this is a broad field and that there is a great need, and only such sound conclusions as will render real constructive benefit to all will, after all, effect the things that we are trying to do. So, we have continually tried to cooperate with other groups, and I want to say that those men whom I have named, with the exception of one, are here this afternoon. We are vitally interested in taxation from the standpoint of the farmer and also from the standpoint of the citizen, because we are rapidly coming to the place, I think, where we need to carefully consider how we are going to amend the constitutions and the things that are necessary to fit into this progressive age of ours. If we are going to do that we must consider the ways and means by which, so far as is possible, to spread the burden equitably.

## THE PROBLEM OF FARM TAXATION

SAM H. THOMPSON

President, American Farm Bureau Federation

The taxation problems of American agriculture arise chiefly from the general property tax and its inherent injustice in any state of much urban or industrial development. Like other real estate, farm land can neither migrate nor evade assessment. Like urban homes occupied by their owners, farm lands can not shift their taxes. The theory that any increase in taxes will be shifted

in the lower prices which new owners of such property will pay gives no comfort to present farm owners.

In other respects agriculture is in a peculiarly exposed position. More than any other real estate except urban homes occupied by their owners, the value of farm lands and homes is determined in part by considerations of sentiment as well as profit. A much larger percentage of farm people are owners of tangible property that is actually taxed than is true of people engaged in any other great industry. Agriculture exacts of its people, both operators and the members of their families, more labor than is required by any other great industry. For their labor and the property they own, it gives them lower average returns, both in money and in the money value of commodities consumed, than any other great industry pays its people. Agriculture is less able, therefore, to pay taxes on the same values than any other great industry.

In the United States, the general property tax has long been the source of nearly all funds expended for state, county and local purposes. It is still the source of funds for more than one-third of all state expenditures and for nearly 93 per cent of all county and local expenditures.

In the long history of the general property tax, both in Europe and in America, its weaknesses have been admitted by all recognized authorities on taxation. The Western European nations have largely abandoned it for broader and more equitable bases of taxation. We still refuse to profit by their experience. In recent years, however, the rapidly increasing complaints of property owners, especially real estate owners, rapidly increasing delinquency in payment of taxes in many parts of the country, and the growing inadequacy of revenue to meet the rising costs of state, county and local government have aroused interest and concern. Most of the States have set up special commissions for the study of revenue problems and for the recommendation of changes in revenue systems. Some of the special commissions have presented excellent reports and recommendations, but nothing really adequate or effective has been accomplished in any state. Taxes levied on property have continued to mount. Delinquency in many states has continued to increase. It is becoming more difficult to sell property for delinquency, hence the increasing use of the alternative, which is forfeiture. Tax sales and forfeiture, intended for use against owners able but unwilling to pay, can never be used successfully against owners where any considerable portion of them are willing but unable to pay.

Our states still cling to the general property tax for several reasons. First among these is probably inertia arising from an erroneous habit of thought. A very large number of well-meaning people, mostly those who do not own real property, believe that the



general property tax is equitable. They believe that owners of property, especially real estate, ought to supply most of the revenues necessary to maintain government. They are shocked and often are incensed at any suggestion that they, also, have duties and obligations in the support of government. As always happens when any class of people have long been the recipients of free or easy governmental favors, they easily drift into the conviction that they have a vested right to them.

Another important reason for the retention of the general property tax is the resistance of selfish and powerful interests and individuals to proper changes in taxing systems. Such persons and interests have no illusions about the advantageous position they occupy under the general property tax. They know their partial or, in many cases, total immunity therefrom. They often shun the ownership of the forms of property which cannot easily evade assessment. When the ownership of such property is necessary in their business they usually employ skilful attorneys to represent them before assessing bodies. Many of them are contributors to campaign funds. Having much influence with the press, they are the source of much of the newspaper propaganda designed to becloud revenue questions and confuse voters. They often dominate state and national organizations, even against the real interest of most of their membership. They commonly argue that the weaknesses of the general property tax are not inherent but administrative. They usually plead against immediate action by raising other issues such as the necessity of further research, especially in expenditures.

Another reason for the continued dominance of the general property tax in the revenue systems of our states is interstate interference or competition. The fear, usually unfounded, of driving out wealth or industries has often defeated proper and needed changes. It is still delaying the establishment of income taxes in many states and the more extensive use of income taxes in the states which are already using this source of revenue.

In the long history of taxation, some truths have been well established. We know that, in the long run, every legitimate, equitable and permanent tax must be paid, either directly or indirectly, out of the net earnings of persons or property. If there are no net earnings, any taxes levied impair some element of value and are self-limiting. Unless they are intended to destroy values, such taxes are not legitimate. They cannot be made part of any permanent system of revenue.

We know, therefore, that any taxes on agricultural, mercantile, industrial or other business property are indirect levies upon the net earnings or income produced by the use or rental of such property, whether such income is received in money, or in commodities or

services having money value. Taxes on homes or durable consumption goods such as furniture or pleasure cars are indirect levies upon services having money value. They are no less taxes on earnings or income because they are levied directly upon property.

We know that the general property tax can be reasonably equitable only under primitive or pioneer conditions. It is only under such conditions that there is little variety in the kinds of tangible property which then is chiefly agricultural property; that there is little or no intangible property; that there is little urban or industrial development; that there is little tendency, either rural or urban; that there is little employment for wages and salaries; that there is little professional service for fees or commissions; and that practically every household pays taxes on its own residence and business property which it occupies and upon which it employs its own labor, skill and management.

We know, also, that primitive or pioneer conditions no longer exist in any state of the Union. We know, therefore, that the present general property tax is not now and can never again be equitable. On the contrary, the longer it is required to be the chief support of government and the more complex the social conditions of the population become, the more inequitable the general property tax is certain to be. This has been its history in every country in the world. This is the history it is making today in every state of our own country.

We know that different kinds of property greatly vary in the amount of labor, skill and management required of their owners for efficient operation; in the extent to which they may be operated, with profit to their owners, by hired labor or by the labor of tenants; in the certainty and regularity with which they produce value; in the relationship between their net production and their value; in the rapidity with which they depreciate or become obsolete; in the extent to which they are subject to depletion and to which depletion will injure coming generations; in their ability to evade assessment; and in their ability to shift any taxes which may be levied upon them. We know, therefore, that, on the basis of ability, the general property tax cannot be equitable among owners of different kinds of property.

In theory, the ability of any property to produce net returns is the principal factor which determines its sale value. In practice, we know that value is determined in part, and often in large part, by other considerations such as sentiment, inflation, economic conditions in different industries, the necessities of either buyer or seller, or expectations as to future values which may never be realized. None of these considerations give any taxpaying ability or have any proper place in an equitable taxing system. We know, therefore, that taxation of property on the basis of value imposes

very unequal burdens on the ability of owners either of the same kinds or of different kinds of property. We know, also, that the lag of assessments behind changing values of property makes the burden of taxation lightest upon owners when property is advancing in value and heaviest when it is losing in value.

We know that the present state systems of taxation virtually exempt from direct taxation the majority of the citizens in most of our larger cities and in many of our states of largely urban population. A striking example is found in the city of Chicago, where all the real estate is owned by about 210,000 or 215,000 different persons and corporations. Many of the owners do not live or have their main offices in the city of Chicago or even in the state of Illinois. The census of 1920 found that only 27 per cent of the homes of Chicago were occupied by their owners. Out of the many thousands of offices, the thousands of corporations, the numerous mercantile establishments, now reported to be about 47,000, and the entire population, now comprising close to 800,000 households, not more than 40,000 pay any personal property taxes whatsoever. This is less than 5 per cent of the total number of offices, corporations, mercantile establishments and households in Chicago. At least 95 per cent of them pay no personal taxes at all. Few of them pay any taxes on real estate. We know, therefore, that most of the citizens of Chicago and of the households therein are wholly exempted by the Illinois taxing system and by the method of its administration from making any direct contribution to the cost of their state, county and local government.

Similar examples of virtual or total exemption could be given in other states. In New York City, for example, only 12.7 per cent of the homes in 1920 were occupied by their owners. In Boston the percentage was 18.5, in Cambridge 17.6, and in Fall River 19.7. In Jersey City it was 19.7. Out of 68 cities of more than 100,000 population in the country as a whole, in 1920, only Des Moines and Grand Rapids, both among the smaller cities of this class, reported more than 50 per cent of home ownership. Of all of the states and the District of Columbia, only 22 reported more than 50 per cent of home ownership in their entire population. In New York State the percentage was 30.7, in Georgia 30.9, in Rhode Island 31.1, in South Carolina 32.2, in Louisiana 33.7, in Mississippi 34.0, in Alabama 35.0, in Connecticut 37.3, and in New Jersey 38.3. In the entire United States only 45.6 per cent of all homes were home-owned; 54.4 per cent of all homes, urban and rural, at that time were rented.

The percentages quoted were for the year 1920. Almost every state and city then reported a lower percentage of home ownership than it had reported in earlier years. The census of 1930 will doubtless show the same uninterrupted trend. The figures given

testify eloquently how far we had gone ten years ago in virtually exempting the greater part of our population from any direct participation in the cost of state, county and local government.

We know that one of the worst effects of our present state systems of taxation is their failure to arouse the civic conscience of all citizens. Dependence on the general property tax almost wholly exempts the majority of citizens from direct taxation. It is inevitable that citizens of any community who pay no direct taxes should be careless of the quality of their public officials and of the administration of their fiscal systems. No such system of wholesale exemption can promote a proper interest in government. It is not consistent with the fundamental principles of a democracy. Equal opportunity to enjoy the benefits and privileges of stable government requires participation in the costs of government in some proportion to ability to contribute to such costs.

It is idle to expect much improvement in the administration of government until our revenue laws are so modified as to require every household to contribute equitably and directly to the cost of government. Without such a requirement we cannot reasonably expect to establish and maintain proper procedure in either the levy or the expenditure of money for public purposes. With such a requirement every household will have a stake in government, public policies and officials will be subject to much more careful scrutiny, and economy in public expenditures will become more than a meaningless phrase.

The ability theory of taxation is now generally accepted as the only possible basis for levying general taxes. The federal government has followed it with fair success. As usual, practice in the states lags far behind. None of our states are using the ability theory except in the crudest way. Why is this true? It is doubtless partly due to the powerful resistance of persons and interests who are partially or wholly exempted by the present taxing systems, and partly due to interstate competition. Another important reason is the want of any information among the people, including property owners, about the amounts of income received from different sources. Until within the last five years no state could proceed very far except upon conjecture in any attempt to levy taxes on the basis of ability.

It is no longer necessary to proceed blindly, either in the nation as a whole or in any of the states, in correcting our taxing systems on the basis of ability. In the publications of the National Bureau of Economic Research, Inc., of New York, we have the results of many years of study and analysis of the national income by some of the foremost economists and statisticians of the entire country. In their volume 7, published in 1925, we have the distribution of the national income in 1919, 1920 and 1921, by sources, among the

several states. In their volume 15, published early in 1930, we have the distribution of the national income, by sources, for every year from 1909 to 1925, and tentatively for the years 1926, 1927 and 1928. The information given in volume 7 can be used in distributing among the states, with at least rough approximation, the amounts of national income from different sources given by the National Bureau, in their recent volume 15.

From the publications of the national bureau, we now know that wages and salaries alone now make up about 57 or 58 per cent, and interest and dividends about nine or ten per cent of the total realized national income, this term denoting the current net income of the entire population. About two-thirds of all net income, therefore, is derived from sources which pay little or no state, county and local taxes. Even in the income-tax states, exemptions and low rates relieve most income from such sources of the payment of much tax.

If two-thirds of the realized national income is derived from sources which pay little or no state, county and local taxes, the remaining one-third of national income must be derived from the sources which pay nearly all such taxes. This remaining one-third contains all net income from individually owned tangible property, whether owner-operated or rented, including the labor, skill and management of all owner-operators and the unpaid labor of members of their families. This remaining one-third of net income, therefore, is only partly attributable to the ownership of property.

It is not possible accurately to separate the two sources of income from owner-operation of property, but various considerations readily show the high proportion of such combined income due to the personal service given by owner-operators. The national bureau reports owner-operators or entrepreneurs in the Union as nearly 10,000,000 in recent years. In this number are all operating farmers whether they own both land and personal property or only personal property. It is obvious that a much larger portion of the income of farm tenants comes from their own labor, skill and management than from the ownership of the farm personal property they use. The same is true of all mercantile and industrial enterprises in which the stock in trade or the tools and implements used are not of high value. The same is true of all professional people, who, if paid with fees, are classified as owner-operators of business enterprises. The relatively small amount of professional property or facilities used in their business by most lawyers, physicians, dentists, engineers, artists, barbers, beauty-shop operators, and bootblacks, and by a host of other professional people paid with fees, is a much less important source of their income than their own labor, skill and management.

It is only in the larger farms operated by their owners, and in

the larger unincorporated mercantile and industrial enterprises, that the value of the property operated may sometimes run so high as to equal or exceed the labor, skill and management of the owner-operators as a source of earnings. In such instances the greater ability and skill required of the owner-operators usually entitle them to, more often, far more than an average allowance for the value of their services.

Any fair allowance for the services of owner-operators will leave a relatively small percentage of total national income to be attributed solely to the ownership of the tangible property which pays most state, county and local taxes. An average allowance of \$1000 to each owner-operator for his own services and for the unpaid service of members of his family would surely be little enough. The National Bureau gives in preliminary estimates the average annual wage of wage-earners in the United States as a whole as \$1,217 in 1926 and as \$1,205 in 1927. An average annual allowance of only \$1,000 each to nearly ten million individual owner-operators of property and business enterprises would leave somewhat less than 22 per cent of total national income attributable solely to the ownership of the tangible property they own and operate. An average allowance of \$1200 each would leave somewhat more than 19½ per cent attributable to such ownership. An average allowance of \$1500 each would leave somewhat more than 16 per cent attributable to such ownership.

The foregoing discussion relates to net income in the United States as a whole. The percentages given are averages for the entire country. The percentages of total net income which are derived from wages and salaries, interest and dividends by the entire population of many states vary more or less from the average. Some exceed the national average. Some fall short of it. Thanks again to the National Bureau of Economic Research, Inc., it is possible, at least with rough approximation, to determine the facts about net income in each of the states. The facts about all income derived in 1919, 1920 and 1921 from sources paying little or no state, county and local taxes are given in the table on page 91.

The highest percentages of total net income which are derived from wages, salaries, interest and dividends are found, as one would expect, in states where the population is predominantly urban or industrial, or usually both. In this list the District of Columbia seems to have stood first in the three-year period 1919, 1920 and 1921. Its rank was no doubt due chiefly to the very large amount then paid in salaries for government service. The highest one-fourth of the states, in descending order, were Rhode Island, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, New Hampshire, New York, Ohio, Maryland, Nevada and Michi-

## PERCENTAGES OF CURRENT NET INCOME OF THE ENTIRE POPULATION

*Derived from Wages, Salaries, Interest and Dividends, and from the Individual Ownership of Tangible Property, including the Personal Industry of all Owner-Operators of Property, and of all Professional Persons Paid with Fees.*

Computed from Income in the Various States, Its Sources and Distribution, in 1919, 1920 and 1921.

National Bureau of Economic Research, Inc., New York, 1925.

| Percentages of Total<br>Income Derived From |                                                      |                                                                                                    | Percentages of Total<br>Income Derived From |                                                      |                                                                                                    |
|---------------------------------------------|------------------------------------------------------|----------------------------------------------------------------------------------------------------|---------------------------------------------|------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| States.                                     | Wages,<br>Salaries,<br>Interest<br>and<br>Dividends. | Ownership<br>of Tangible<br>Property<br>and<br>Personal<br>Industry of<br>all Owner-<br>operators. | States.                                     | Wages,<br>Salaries,<br>Interest<br>and<br>Dividends. | Ownership<br>of Tangible<br>Property<br>and<br>Personal<br>Industry of<br>all Owner-<br>operators. |
| Dist. of Columbia                           | 76.89                                                | 23.11                                                                                              | Florida . . . . .                           | 59.13                                                | 40.87                                                                                              |
| Rhode Island . . .                          | 75.73                                                | 24.27                                                                                              | Montana . . . . .                           | 58.75                                                | 41.25                                                                                              |
| Massachusetts . . .                         | 75.10                                                | 24.90                                                                                              | Vermont . . . . .                           | 58.44                                                | 41.56                                                                                              |
| Connecticut . . . .                         | 73.87                                                | 26.13                                                                                              | New Mexico . . . .                          | 58.13                                                | 41.87                                                                                              |
| New Jersey . . . . .                        | 71.23                                                | 28.77                                                                                              | Oregon . . . . .                            | 57.88                                                | 42.12                                                                                              |
| Pennsylvania . . . .                        | 71.07                                                | 28.93                                                                                              | Louisiana . . . . .                         | 57.70                                                | 42.30                                                                                              |
| Delaware . . . . .                          | 70.48                                                | 29.52                                                                                              | Wyoming . . . . .                           | 57.23                                                | 42.77                                                                                              |
| New Hampshire . . .                         | 69.78                                                | 30.22                                                                                              | Wisconsin . . . . .                         | 57.00                                                | 42.91                                                                                              |
| New York . . . . .                          | 68.62                                                | 31.38                                                                                              | Kentucky . . . . .                          | 56.50                                                | 43.50                                                                                              |
| Ohio . . . . .                              | 68.58                                                | 31.42                                                                                              | Iowa . . . . .                              | 55.00                                                | 45.00                                                                                              |
| Maryland . . . . .                          | 68.55                                                | 31.45                                                                                              | Nebraska . . . . .                          | 53.52                                                | 46.48                                                                                              |
| Nevada . . . . .                            | 68.14                                                | 31.86                                                                                              | Alabama . . . . .                           | 53.24                                                | 46.76                                                                                              |
| Michigan . . . . .                          | 67.33                                                | 32.67                                                                                              | Tennessee . . . . .                         | 52.73                                                | 47.27                                                                                              |
| Illinois . . . . .                          | 66.55                                                | 33.45                                                                                              | Kansas . . . . .                            | 52.55                                                | 47.45                                                                                              |
| West Virginia . . .                         | 66.12                                                | 33.88                                                                                              | Georgia . . . . .                           | 50.35                                                | 49.65                                                                                              |
| Arizona . . . . .                           | 65.35                                                | 34.65                                                                                              | Texas . . . . .                             | 49.70                                                | 50.30                                                                                              |
| Maine . . . . .                             | 64.10                                                | 35.81                                                                                              | Oklahoma . . . . .                          | 48.23                                                | 51.77                                                                                              |
| Indiana . . . . .                           | 62.48                                                | 37.52                                                                                              | Idaho . . . . .                             | 47.65                                                | 52.35                                                                                              |
| California . . . . .                        | 62.28                                                | 37.72                                                                                              | North Dakota . . .                          | 45.03                                                | 54.97                                                                                              |
| Missouri . . . . .                          | 62.21                                                | 37.79                                                                                              | South Carolina . . .                        | 44.67                                                | 55.33                                                                                              |
| Minnesota . . . . .                         | 61.34                                                | 38.66                                                                                              | North Carolina . . .                        | 44.57                                                | 55.43                                                                                              |
| Washington . . . . .                        | 61.06                                                | 38.94                                                                                              | South Dakota . . .                          | 43.70                                                | 56.30                                                                                              |
| Utah . . . . .                              | 59.61                                                | 40.39                                                                                              | Arkansas . . . . .                          | 41.33                                                | 58.67                                                                                              |
| Colorado . . . . .                          | 59.57                                                | 40.43                                                                                              | Mississippi . . . . .                       | 38.16                                                | 61.84                                                                                              |
| Virginia . . . . .                          | 59.42                                                | 40.58                                                                                              |                                             |                                                      |                                                                                                    |
|                                             |                                                      |                                                                                                    | United States . . .                         | 63.67                                                | 37.33                                                                                              |

gan. The dominance of New England and the Middle Atlantic States in this group is obvious. Only two of the twelve states are classified as mid-western. The high position of the single far-western State, Nevada, was no doubt due to the mining industry, in which a large portion of its population was employed. The percentages for all the states, in descending order, are given on page 91.

All of the states in the highest group considerably exceeded the national average in the percentages of total net income derived from sources paying little or no state, county and local taxes. The population of the District of Columbia, Rhode Island and Massachusetts now probably derive more than three-fourths of their income from virtually non-taxpaying sources. In Ohio, Maryland, Nevada and Michigan, the lowest ranking states of this group, income from such sources now probably falls little if any short of 70 per cent of the total. If with income from these sources is included a fair allowance for the labor, skill and management of owner-operators of property, and for the unpaid labor of members of their families, there is probably not a state in this group in which the ownership of tangible property, chiefly real estate, produces much more than fifteen per cent of the total net income of the entire population. Yet real estate still pays the most of their taxes.

The lowest percentage of total net income derived from wages, salaries, interest and dividends are found, as one would expect, in states where the population is predominantly rural. The twelve states having the lowest percentages in 1919, 1920 and 1921, in the ascending order, were Mississippi, Arkansas, South Dakota, North Carolina, South Carolina, North Dakota, Idaho, Oklahoma, Texas, Georgia, Kansas and Tennessee. Eight are southern states, three are plains states, and one is a mountain state. But even in Mississippi and Arkansas, income derived from wages, salaries, interest and dividends now falls little, if any, short of 40 to 42 per cent of the total. If with income from these sources is included a fair allowance for the labor, skill and management of owner-operators of property, and for the unpaid labor of members of their families, the population even of Mississippi and Arkansas, the lowest percentage states in the Union, then derived and no doubt still derives much more than one-half of their total net income solely from personal industry and much less than one-half from property. Yet property, chiefly real estate, still pays most of their taxes.

In every state of the Union, the income of the pioneers, either in money or in commodities, was derived almost wholly from the owner-operation of farm property. We know, therefore, that the portion of national income derived from wages and salaries has increased from practically nothing in pioneer days to 57 or 58 per



cent at the present time, and that the portion derived from interest and dividends has increased from practically nothing to nine or ten per cent at the present time.

We know, therefore, that the portion of the national income derived from sources which pay little or no state, county and local taxes has increased from practically nothing to about two-thirds of the total. There can be no doubt that the percentage of national income derived from practically non-taxpaying sources will continue to increase. The continued increase in tenancy and in corporate organization and the continued decrease in the number of individual enterprises in relation to the entire population can have no other result. We know, therefore, that until all our state taxing systems are radically modified, individual property owners, especially owners of real estate, will be less and less able to carry the present grotesquely unfair distribution of the cost of state, county and local government. We know that the ownership of homes and farms, or of any other kind of property which cannot shift its taxes, is becoming less and less desirable. Until the taxing systems of the several states are greatly modified, we may expect avoidance of such ownership rapidly to increase. As a result, we may expect the value of such property further to decrease, with increasing delinquency, tax sales and forfeitures, and with increasing inadequacy of funds in many taxing districts.

The American Farm Bureau Federation has declared itself opposed to special favors for any class in national, state or local taxation; in favor of continued and impartial study of the facts of taxation, including the social and economic effects of any system of revenue; in favor of requiring every person owning or operating property for profit or profitably employed to contribute directly, in proportion to ability, to the cost of government; and against total exemptions from taxation as destructive of a wholesome and general public interest in efficiency, economy and honesty in the administration of government.

Organized agriculture supports proper control of budgets, bond issues and expenditures, but does not have much confidence in any great improvement either in making assessments or in controlling expenditures under any system of wholesale exemptions from taxation. It does not believe that the confiscatory taxation of homes and farms can be avoided, or that the majority of the population in any highly developed urban or industrial state can be reached directly in any other way except through an income tax.

Organized agriculture believes that radical changes in revenue systems will be forced by increasing inadequacy of funds for public purposes and by impending confiscation not only of property in the less able taxing districts in many states but also of the poorer properties and non-productive properties in many urban and sub-

urban communities. It does not believe that the states can afford to let values be destroyed by inequitable taxing systems. It believes, therefore, that the time has come for action.

CHAIRMAN NEWTON: I have been asked to state that the American Farm Bureau Federation is expecting to hold a conference on taxation for the benefit of its members, friends and others interested in the farm-tax problem, at the Muehlebach Hotel, in this city, beginning Friday afternoon. Any of you are cordially invited to be present if you care to attend.

The next speaker on this program has been retained by groups interested in real estate, especially the National Real Estate Association and building and loan associations, to state the tax problem as it affects that class of property, which, as President Thompson has said, is paying a very large percentage of all taxes.

It is a great pleasure to introduce to you Professor Simeon E. Leland of the University of Chicago.

S. E. LELAND (Illinois): When I was asked to discuss the subject of the relations between federal, state and local fiscal systems I was not apprised of the fact that I was to appear upon a farm program. The relations there are somewhat more numerous than relationships of a rural character, but the farmers in attacking their problem have given us an openness of mind that at least prepares them for almost anything. I suggest that attitude of mind may well prepare you for what I have to say.

## THE RELATIONS OF FEDERAL, STATE AND LOCAL FINANCE

SIMEON E. LELAND

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The relation of intergovernmental finance in the United States is a problem almost as old as the commonwealth itself. It is a problem which has frequently been discussed at the conferences of the National Tax Association<sup>1</sup> and in the reports of its various committees.<sup>2</sup> Probably little that is new can be said.

<sup>1</sup> See, for example, L. R. A. Seligman, "Relation of State and Federal Finance," PROCEEDINGS, NATIONAL TAX ASSOCIATION, 1900, pp. 213-26; H. P. Willis, "Relation of Federal to State and Local Taxation," PROCEEDINGS, NATIONAL TAX ASSOCIATION, 1907, pp. 201-10; "Discussion on the Relations of Federal and State Taxation," PROCEEDINGS, NATIONAL TAX ASSOCIATION, 1909, pp. 239-64; "General Discussion, Relation of Federal and State Taxation," PROCEEDINGS, NATIONAL TAX ASSOCIATION, 1910, pp. 128-46.

<sup>2</sup> As, for example, Report of Committee on Double Taxation and Situs for Purposes of Taxation, PROCEEDINGS, NATIONAL TAX ASSOCIATION, 1914, pp. 233 ff.; Preliminary Report of the Committee Appointed by the National

The problem of the fiscal relations between governments is but part of the larger problem of intergovernmental relations which arises whenever a people are governed by more than a single political unit. The problem is rendered complex today by the overlapping of competing local political jurisdictions organized functionally and territorially in every state. In Illinois, for example, there are two and a fraction governments for every 1000 people. If this ratio prevails throughout the country, there are over 250,000 governments whose interrelations must be taken into account. Further complications arise from the unequal distribution of wealth and income among individuals, territories and economic groups.<sup>3</sup> As a result of this fact, capacity to support government is also unequal. The attempt locally to maintain governments where taxable capacity is lacking results in little net gain to those governed. Political units of this type soon degenerate, yet their existence is often prolonged by "doles" from the state. The maintenance of *independent* governments in regions where surplus taxable capacity exists is no less undesirable from a social viewpoint, since such districts resent attempts to tax their wealth for the benefit of non-residents. Thus, the maintenance of complex governmental structures gives rise to numerous social, economic and political problems.

The interrelations among units with independent or quasi-independent political spheres are generally accidental. Recognition of mutual difficulties or the anticipation of common gains has, however, led to amalgamations. Independent political spheres have vanished as more powerful groups have conquered their neighbors. The evolution of modern states has been accompanied by a concentration of power, the unification of functions and the centralization of the means of support.<sup>4</sup> Purely local government has been displaced by units operating in larger territories. Nationalism has endeavored to weld these bodies into a union but the process in the United States has not been completely successful. The division of powers among our governments is anomalous. The central government possesses only delegated — largely defective — powers. The states which have powers reserved to them are so circumscribed on the one hand by constitutional limitations and on the other by the interstate character of our economic and social system that effective

Tax Association to Prepare a Plan of A Model System of State and Local Taxation, *ibid.*, 1919, pp. 426 ff.; Report of Committee on Simplification of State Taxation of Business Concerns, *ibid.*, 1926, pp. 155 ff.; *ibid.*, 1927, pp. 323 ff.; *ibid.*, 1928, pp. 398 ff.; *ibid.*, 1929, pp. 152 ff.; Report of Committee of National Tax Association on Reciprocity in Inheritance Taxation, *ibid.*, 1927, pp. 415 ff.; *ibid.*, 1928, pp. 478 ff.; *ibid.*, 1929, pp. 200 ff.

<sup>3</sup> See especially, Blough, *The Geographical Problem in Wisconsin Taxation*, Bulletin No. 39, Wisconsin Tax Commission, June, 1930.

<sup>4</sup> Cf. Bastable, *Public Finance* (3rd ed. revised and enlarged, 1922), pp. 113 ff.

government, social control, or even financial administration is impossible. The central government is unable to expand its functions or develop its fiscal system because of constitutional limitations and the practical antagonisms of lesser high-sovereign states. The localities, particularly those of metropolitan character whose functions and budgets exceed those of the states of which they are a part, possess practically no sovereign powers, are mere agencies of the states and are so restricted in the choice of fiscal measures that the taxable capacity found within their borders is seldom available to finance local government. The framework of government thus erected has become a matter of custom, as well as of law.<sup>5</sup> Change comes slowly, experimentation is made negligible, and the crossing of territorial as well as functional boundary lines is rendered difficult.

The ideal relationship between federal, state and local revenue systems is one of unity. The financial system of a nation should be highly, if not completely, integrated. The tax system should rest upon a diversified base, the net operative effect of which should be taxation under the principle of progression or ability to pay. Every tax need not be on the basis of individual faculty, as benefit charges should be freely incorporated in the system. The revenue system should be under the control of a single governmental unit—the national government—so as to secure uniformity of laws, administration and burdens, and to make possible effective adjustment of tax loads as changing economic conditions and governmental needs may require. The administration of such a system should be centralized, or located where maximum efficiency can be secured. The revenue receipts produced by the system should be shared with all governmental units in such proportions and amounts as to maximize the social utility of government.

The ideal which has been stated will be very difficult of attainment. Nevertheless, the immediate undertaking should be so as to relate governments, their functions and financial structure that this ideal may be gradually approached. A logical first step is the integration of governments.

No form of government or its structure is an end in itself. In the beginning, government was created to satisfy common needs and administer to collective wants. Its value continues only so long

<sup>5</sup> Compare with the main the structure of local government and the way in which local problems are handled have not been changed since the state was created. In fact, some aspects of present institutions have not been altered since the English established the provincial government of New York after driving out the Dutch in 1664. \* \* \* \* the main features of county government have not been changed in the 146 years since New York became a state \* \* \* \* where changes have been made they are of a patchwork character." *Report of Special Joint Committee on Taxation and Retrenchment*, 1923, pp. 11, 12, 13.

as general welfare is enhanced—a thing which is often obscured by the fetishes attached to particular forms and theories of government, such as that of the United States, the nature of which was determined when the country was but a fringe of small agricultural settlements along the Atlantic coast. Collective wants were then few and the demands upon government were simple as well as local in character. Since the colonial period, economic and social changes have taken place, the population has multiplied many times, its wealth and income have increased, the territorial area to be governed has been enlarged, new functions have been engrafted upon the old political structure, new units of government have been created, changes in transportation, communication and the general level of education have transpired. Economic life is national, or even international in character, freely crossing political boundaries except where artificial political trade barriers have been erected. Economic activity thus occupies a field practically divorced from that of the American state. As a result government trails industry in the technique of service and the sating of wants. While industrial integration has been going on, the opposite tendency has dominated governmental policy. The governmental sphere no longer is coextensive with the sphere of economic activity.

The first problem, therefore, is to bring our political structure into harmony with our economic unit. This calls for governmental integration and the enlargement of the territorial base for government. The place to begin is with the abolition of the township.<sup>6</sup> In Iowa, for example, there are 1675 townships, in Kansas 1500, in Ohio almost 1400, in Michigan 1376, in Illinois 1327, in Missouri 1299. In Ohio the number of townships within a single county varies from 8 to 28; the area of each is about 30 square miles and the population outside of municipalities averages under 1000.<sup>7</sup> These governments, many of which cannot support themselves, and whose primary function has been the building of township roads and the maintenance of one-room schools, perform no functions which can not and should not be performed by larger political units. The time has come when this New England tradition should be discarded.<sup>8</sup>

Along with the abolition of townships should go special school districts, road districts, sewer districts, mosquito and pest abatement districts, and similar subdivisions. In Illinois in 1918 there were

<sup>6</sup> For similar recommendations see *Report of the Joint Legislative Committee on Economy and Taxation*, Ohio, 1920, pp. 249 ff.; *Report of New York Tax Commission*, 1928, pp. 10-11; Compton, *Fiscal Problems of Rural Decline*, pp. 178 ff.

<sup>7</sup> *Report*, Ohio, *supra*, p. 249.

<sup>8</sup> This is applicable, of course, only to certain northern states, as township government was never a characteristic of local government in the South.

12,000 school districts.<sup>9</sup> In 1925 there were 1,488 road districts<sup>10</sup> and over 16,000 governments of all kinds.<sup>11</sup> Too frequently have these units been organized for the purpose of avoiding the provisions of tax-rate and debt-limit laws. This type of financial gerrymandering has led to extravagant support of functions in some districts while in others there was a lack of financial resources. State aid for education has been designed to correct this mal-distribution of tax resources but aids, on such a basis, do not strike the heart of the problem. The remedy is governmental reorganization and the abolition of special districts rather than their ameliorated perpetuation through state grants.

The abolition of county government should also be seriously considered. Many counties possess too few people and too little wealth to justify the maintenance of government. These "pauper counties" have often relied upon grants from the state for their support, as in Kentucky and Virginia.<sup>12</sup> At the opposite extreme, counties containing metropolitan cities are so dwarfed in their functions that their existence is superfluous, as will be seen more fully in subsequent paragraphs. The movement to abolish or consolidate counties is thus appearing in the largest and most populous, as well as in the least populous and poorest counties. The number of counties alone furnishes a *prima facie* case for their consolidation. In Kentucky they number 120. Virginia and North Carolina have 100, Missouri has 114, Kansas 105, Indiana 92, Ohio 88, whereas Massachusetts has 14, Connecticut 8 and Rhode Island 5. The number of officials required to run these petty governments is enormous. In Indiana, in addition to over 1000 township trustees, there are "276 county commissioners, 644 county councilmen to watch the county commissioners, 3048 members of the advisory boards as sort of guardians over the 1000 and more trustees," and in addition over 1000 elected county officials—"an average of 54 officers to the county."<sup>13</sup> The financial burden of supporting this staff of officers is enormous. Their support constitutes a permanent charge against taxpayers before any services for the benefit of citizens are performed. In New York, for example, over 36 per cent of the expenditure of counties and over 20 per cent of the expenditures of towns from 1918 to 1921 went for the support of general govern-

<sup>9</sup> *Administration of Public Funds in Illinois*, p. 20.

<sup>10</sup> Auditor of Public Accounts, *Statement of Indebtedness of the State of Illinois and the Political Subdivisions Thereof*, January 1, 1925, p. 3.

<sup>11</sup> *Ibid.*

<sup>12</sup> Cf. *The Government of Kentucky, Report of Efficiency Commission*, Vol. I.

<sup>13</sup> Miller, "Cost of County Governments, *United States Daily*, Oct. 2, 1930.

ment, constituting practically an overhead cost antecedent to the performance of governmental functions.<sup>14</sup>

The inability of many counties to support government has resulted in frequent attempts to correct the situation by the granting of state aid or the extension of state functions. The counties have been principally concerned with the construction of roads, the development of educational facilities, the maintenance of a few charitable institutions and the administration of justice, functions which are rapidly being taken over by the state.<sup>15</sup> Possibly small and impecunious counties should be consolidated as a first step in a program of economy and efficiency, but in the end they should be abolished as units of government, their functions being transferred to the state. Where local administrative areas are required for the effective performance of functions hitherto performed by localities such areas should be created by the state but their boundaries and functions should be flexible, changing as conditions may require. This step will leave city government in its present position; its sphere should be widened so that adjacent areas socially and economically affected by city action may be under control of urban units.

State governments, too, cannot escape the need for change. There are already too many states. Our economic and social life passes over state political boundaries, leaving the states impotent to regulate it. No longer can single states adequately tax by simple formulae the property of interstate corporations. Their attempts too frequently result in obnoxious double taxation, in impediments to commerce and the free movement of capital. Conventions to promote uniformity in state legislation must be held, committees like those of the National Tax Association must work for reciprocity and the elimination of double taxation, and the courts must be prevailed upon to erect standards of acceptable state legislation. Recently the courts have shown a disposition to impose limits upon state tax powers which may sooner or later bring uniformity in state tax policies relating to interstate business.<sup>16</sup> But promising

<sup>14</sup> Davenport, *An Analysis of the Cost of Municipal and State Government*, p. 79. In 1923 excessive costs for administering local poor relief in New York were pointed out.—*Report of the Special Joint Committee on Taxation and Retrenchment*, 1923, pp. 71 ff. See also pp. 82 ff.

<sup>15</sup> Cf., e. g., *State Expenditures, Tax Burden, and Wealth*, a report by the Special Joint Committee on Taxation and Retrenchment, New York State, 1926, pp. 65-8.

<sup>16</sup> As, for example, in *Frick v. Pennsylvania*, 268 U. S. 473 (1925); *Rhode Island Hospital Trust Co. v. Doughton*, 270 U. S. 65 (1926); *Safe Deposit and Trust Co. of Baltimore v. Virginia*, 280 U. S. 83, *United States Daily*, Nov. 26, 1929; *Farmers Loan and Trust Company v. Minnesota*, 280 U. S. 204, *United States Daily*, Jan. 8, 1929; *Baldwin v. Missouri*, 281 U. S. 586, *United States Daily*, May 27, 1930.

as this course of action appears, it cannot prevent the movement of capital and industry to escape taxation when tax subsidies are offered, nor can it eliminate the evil of competitive tax exemption or competitive mal-administration. Treaties between states under the compact clause of the Federal Constitution offer some promise for the future. Regional government has possibilities which should be investigated. Greater hope, however, would inhere in a reconstitution of states territorially or in the complete elimination of state government as it now is and the substitution therefor of administrative districts under federal control, local autonomy and local experimentation being secured by state or regionally-elected administrative councils. Perhaps the details of such a scheme are both imperfect and impractical but the problems of today call for a very different type of government than we now have. The needs of economic classes, of territories specializing in manufacturing, commerce and agriculture cannot be met by our federal geographical form of government. It is time that the utility of its structure be examined and that it be adapted to current conditions.

The problems of the metropolis call for similar treatment. The human relations in these centers cross township, county, state and frequently international political boundaries. The metropolis cannot regulate the actions of those who come within its sphere save as its political jurisdiction is coextensive with the boundaries of its economic and social life. In such areas the elimination of political subdivisions is imperative. A city can only govern itself when it controls or is itself the source of local political power. When independent governments exist within and around it, it can neither exercise its political power nor control the financial burdens which competing governments place upon its citizens. The necessity for unity has led to the abolition of county governments in many urban centers, such as Denver, San Francisco and New York. Pittsburgh recently attempted to consolidate all of the governments within Alleghany County, but the plan was defeated.<sup>17</sup> St. Louis is working upon such a consolidation. The situation is perhaps at its worst in Chicago. In the city there are eight principal governments and over a score of minor ones.<sup>18</sup> There are twenty different authorities dealing with parks and recreation having jurisdiction within the limits of the city of Chicago.<sup>19</sup> There are two operating and six non-operating townships within the city limits.<sup>20</sup>

<sup>17</sup> Cf. Miller, "The Pittsburgh Consolidation Charter," *National Municipal Review*, Vol. XVIII, No. 10, pp. 603-09 (Oct., 1929).

<sup>18</sup> Merriam, *Chicago*, p. 90.

<sup>19</sup> Boyle, *Government Reporting in Chicago*, p. 62.

<sup>20</sup> *Preliminary Report on Problems of Government Simplification, Administrative Processes and Fiscal Affairs of the various local taxing agencies*



There are five separate civil service commissions engaged in the task of hiring public employees. In Cook County, outside of the limits of Chicago there are 9 cities, 76 villages, 30 townships, 192 school districts, over 30 park districts, over 40 road and bridge districts, 2 sanitary districts, and enough additional subdivisions of government to aggregate 415 separate, independent units, each having power to levy taxes and borrow money.<sup>21</sup> If the area of metropolitan Chicago—its trade and social area—is made the basis of the calculation, the territory embraced exceeds 5000 square miles with a population in excess of 4,000,000.<sup>22</sup> In this area there are 1600 independent governments including 4 states, 16 counties, 203 cities, 166 townships and 188 drainage districts.<sup>23</sup> The question has been quite properly asked, "How can 4,000,000 people manage 1600 governments and attend to their own affairs?"<sup>24</sup> The same questions confront the residents of every county and city, only in lesser degree.<sup>25</sup>

From a fiscal standpoint this condition, among others, has prevented the development of an equitable municipal tax system. Local governments have been forced to rely upon the general property tax as their major source of revenue. Real estate has been the backbone of this tax; personalty has largely escaped; thus the intangible wealth and income present in the community has contributed little or nothing to the support of local government. In a majority of the states income taxes are lacking so that personal ability represented by income is not reached even for state purposes and the federal income tax with its liberal exemptions fails to tax many persons who should pay for governmental support. With objective taxes at their command, subordinate political units have multiplied and all governments have so increased their levies that the property-tax burden has become intolerable both on the farm and in many urban communities. The state governments have diversified their own revenue systems but have little improved the local tax base. Equalizations and state administration have made the property tax more equitable. Several have distributed to the localities a portion of the proceeds from income taxes. Others

*in Chicago and Cook County*, prepared by Advisory Board of Estimate and Apportionment of Local Public Expenditures, appointed by the Board of Cook County Commissioners, 1929, p. 12.

<sup>21</sup> *Ibid.*, pp. 13, 16.

<sup>22</sup> Merriam, *op. cit.*

<sup>23</sup> The independent governments were classified by Merriam as follows: States 4, Counties 16, Cities 203, Townships 166, Park Districts 59, Sanitary Districts 10, Drainage Districts 188, Miscellaneous 1027—Total 1673. *Ibid.*, p. 91.

<sup>24</sup> *Ibid.*, pp. 91-92.

<sup>25</sup> Cf. Frazer, "Northern New Jersey Seeks Solution of Regional Problem," *National Municipal Review*, Vol. XIX, No. 9, pp. 593-98 (Sept., 1930).

have made grants-in-aid either to equalize given services or to stimulate the spending of larger amounts for desirable social activities.<sup>26</sup> But little has been done by the state to develop a well-balanced municipal tax system or to decrease the cost of local government.

A few states have attempted to minimize the cost of local activities. Central purchasing departments have been created. Audits of accounts have been commenced. Administrative control over local tax levies and expenditures have been undertaken but these relief measures do not strike at the roots of governmental folly—the creation of a multiplicity of political subdivisions. A logical next step, therefore, appears in the integration of governmental units. Meanwhile the transference of government functions should take place. This course should be determined relative to the nature of public wants sated by government, the allocation being determined by ability most economically to satisfy the demand for governmental services.<sup>27</sup> This will necessitate the distribution of functions on other than an historical or accidental basis, and should do much to improve the quality of government.

The principal obstacle to be encountered in increasing centralized administrative control over local governments or in attempting to integrate governments or their functions is the belief in the efficacy of local autonomy. This doctrine was an important feature of American democracy in days of the hamlet and the village, in the age before industrialism produced the metropolis. At that time existing transportation and communication facilities required small governmental units. Local autonomy meant a political government chiefly concerned with personal matters of no great moment to be settled by forensics rather than the research which is now requisite to the proper settlement of complicated public problems. When governments did less and cost little, local autonomy was a tolerable principle for governmental action, but when costs are high and the demand for governmental service exceeds the capacity to serve, it is important that governments be efficient and that maximum social utility be considered before local autonomy.

The integration of governments should be accompanied by the integration of fiscal systems. This is a departure from the traditional reform of twenty-five years ago. Early sessions of this Association were spent debating the advantages of separating the sources of state and local revenues.<sup>28</sup> Most of these alleged advan-

<sup>26</sup> Cf. *Annual Report of the State Tax Commission*, New York, 1928, pp. 26 ff.

<sup>27</sup> Cf. Bastable, *op. cit.*, p. 113.

<sup>28</sup> Cf. Seligman, "The Separation of State and Local Revenues," *PROCEEDINGS OF NATIONAL TAX ASSOCIATION*, 1907, pp. 485-514; Adams, "Separation of the Sources of State and Local Revenues as a Program of Tax

tages have failed to materialize and such as have occurred are the result of centralized administration.<sup>29</sup> The gains to the state have been offset by losses to local governments.<sup>30</sup> The results from integration are more hopeful.

The property tax which is now locally administered under state supervision should be made a state-administered tax.<sup>31</sup> The assessors and their supervisors should be made state officials under civil service rules. Their valuations should be made by appraisal methods under approved techniques assuring uniform standards of assessment. Territorial inequalities would be eliminated and the necessity for equalizations could be dispensed with. The demand for local knowledge from local assessment officials, which is seen as an obstacle to state administration of property taxes, is tantamount to a request for no administration whatever.<sup>32</sup> The employment of approved assessment techniques is far better than the hiring of local assessors with their store of personal information and their groups of friends and political associates. Card files can soon displace the faulty memories of part-time elected assessors. With an impersonal assessment force the quantity and quality of assessed valuations should improve. The responsibility for equitable valuations is thus placed directly upon the state government with its specialists in taxation—the tax commission—in control. The interest of the state in the maintenance of the system could be guaranteed by the maintenance of a state tax rate. Local needs could be met, in part, by local additions to the state tax rate. This proposal reverses the present arrangement under which the state, using the local tax base, adds its levy to the local levy. The proposed shift would eliminate many of the evils now present in the general real estate tax.

Reform," *ibid.*, pp. 589-92; Thompson, "Separation of State and Local Revenues," *ibid.*, 1915, pp. 42-49; Plehn, "Results of Separation in California," *ibid.*, pp. 50-58.

<sup>29</sup> Leland, *The Classified Property Tax in the United States*, p. 406. Cf. Lutz, *Public Finance*, p. 252; also in PROCEEDINGS OF NATIONAL TAX ASSOCIATION, 1925, pp. 51-52; *ibid.*, 1926, pp. 298-302; *Final Report of California Tax Commission*, 1929, pp. 44 ff.

<sup>30</sup> Lutz, *loc. cit.*, 1926, pp. 299-302; *Final Report of California Tax Commission*, 1929, pp. 44 ff., 68 ff.; Tunell, *The California Revenue System* (Reprint, 1929), pp. 3-4, 20-23.

<sup>31</sup> Cf. Seligman, *op. cit.*, pp. 664, 668.

<sup>32</sup> Professor Seligman, however, has emphasized the need for local administration as follows: "Secondly, the efficiency of the administration. Certain taxes like real estate taxes are specially adapted to initial local administration, because the assessment takes place under the eyes of the individual taxpayer. In many other cases, however, the farther away we get from local administration the better the chances not only of securing expert officials, removed from the dependence upon local prejudice, but also of making allowance for certain inevitable gaps in any local administration." *Ibid.*, p. 670.

Local revenues from the property tax should be supplemented by funds distributed from the proceeds of income and faculty taxes. These taxes must be administered by units other than the local government, but the proceeds from given taxes do not necessarily belong exclusively to the administering unit. Administrative functions should be placed where they can best be performed—funds should be used where they will most increase the benefits from government.

Such a proposal leads to the suggestion that income and inheritance taxes should be placed under the control of the federal government.<sup>33</sup> These federal taxes should be made in lieu of the state taxes with rates and exemptions accordingly adjusted. Or, as an alternative, the states might be permitted to add their rates up to certain maxima to those of the federal government.<sup>34</sup> In any case the federal government should share the proceeds from these taxes with the states,<sup>35</sup> which in turn would divide them with the localities. If such a plan were adopted, uniformity in income taxation would be secured at one stroke, double taxation and jurisdictional conflicts would be eliminated, tax competition would be ended and the integrated income tax could be equitably adjusted to reach all classes and all sizes of incomes. The greatest difficulty would be the development of an equitable distribution formula, but this could be developed by experimentation and research. The fiscal adequacy of such a tax system would be such as to guarantee to all governments as much as they are now getting from the same sources. With that as the initial guarantee and with future prospects of increased returns, the objections on the part of state governments might be overcome. At all events the gains appear to outweigh the losses.

The federal government should also undertake the taxation of interstate business.<sup>36</sup> Considerations of uniformity and equity, as well as the impossibility of adequate state taxation, make this course desirable. The federal system should also be supplemented by the development of a gift tax to stop the avoidance of present taxes now under federal control. From time to time the system might be extended but the aim should be to develop a tax base which rests fundamentally upon the ability basis, allowing limited benefit charges to be imposed by state and local governments. These local

<sup>33</sup> Cf. Seligman, *Likewise in Taxation*, 10th ed., pp. 370, 677; Leland, "The Future of the Estate Tax," *National Income Tax Magazine*, January 1926, pp. 9-11; Schultz, *The Taxation of Inheritance*, Chapter XXI.

<sup>34</sup> But cf. *Report of the Special Joint Committee on Taxation and Retrenchment*, New York, 1925, p. 20.

<sup>35</sup> Seligman, *op. cit.*, pp. 386-87.

<sup>36</sup> Cf. Seligman, *op. cit.*, pp. 380-82.

levies should be supplemented by subventions from the proceeds of progressive taxes imposed under federal authority.

The next step, of course, would be to transfer all tax functions save limited local licenses for regulatory purposes and special assessments for permanent improvements to the federal government, abolishing all other taxes and supporting intermediate and local government on the basis of subventions and grants. The danger in giving complete financial control to the central government could be obviated by allowing the distribution to be determined by an administrative council or governing board selected by state or regional districts. Distributions to localities could be similarly protected. The lack of clear-cut lines between federal, state and local functions and expenditures makes both governmental and fiscal integration an ideal solution for the present chaos in intergovernmental, functional and fiscal relations.

The plan here suggested is beset with difficulties and is probably impossible of attainment short of a complete reorganization of federal, state and local government. A reorganization of government within the state is within the range of immediate possibilities but the rearrangement of states, even fiscally and territorially, is so remote as to be quite visionary. And although the statement of an ideal — though a revolutionary one it may be — is beneficial, of greater practical significance are the things which can be done here and now, all of which promote the integration of governments and the integration of their fiscal systems.

A logical first step in the program of unifying government is the abolition of the township. This can be readily followed by the consolidation of counties and the adoption of a regional basis for local government. This step is of especial importance to metropolitan centers, the governments of which should be consolidated into a single unit with a territory large enough to enable the metropolis to control those who proximately come within its sphere of influence. Sufficient consolidations of this type have already taken place conclusively to demonstrate the merits of the proposal; their extension to other areas would appear to be beneficial. And, while township elimination and county consolidation are taking place the gradual transfer of many functions, such as education, highways, and the administration of justice, to the state government should be commenced. As the activities of the state are thus increased the benefits of further functional integration can be easily measured.

These changes should also be accompanied by the gradual integration of fiscal systems and administration. The property tax which for decades has been the prevailing source of state and local revenue should be made a state-administered tax. The office of township assessor should be abolished and a full-time local assessor

appointed by the state officials under civil service rules and state control should undertake the tasks of local assessment. These valuations should be state valuations to which the state and local levies could be applied. Income, inheritance and other faculty taxes should be developed not only to supplement the existing real property tax, but also to reach that personal ability to support government which now largely escapes taxation. The income and inheritance taxes especially should be transferred to the federal government for administration and control, but a division of revenues with the states, and by them to the localities, should be assured. The taxation of interstate business and income appears logically to belong to the federal government, and in order to secure greater uniformity and equality of taxation such taxes should be surrendered to the federal government, division of revenues again being insured. Here, too, the gains to accrue from further integration can best be measured when the benefits resulting from these transfers have appeared. And while the ideal relationship between the various fiscal systems of American governments may appear visionary, these more immediate steps appear to be within the range of possible attainment. At least they offer possibilities for bringing our governmental structure more into harmony with existing social and economic institutions.

CHAIRMAN NEWTON: The third speaker on this afternoon's program is not a stranger to Missouri or Kansas, or for that matter to many other states. He has contributed his part toward seeking a solution for some of the vexing problems that have been discussed by both of his predecessors on this platform this afternoon, namely the questions of the financing of one of those local functions of government—education. I wish to introduce Doctor Paul R. Mort, of Teachers College, Columbia University.

## TAX RELIEF IN THE FINANCING OF PUBLIC SCHOOLS

PAUL R. MORT

Director of the School of Education,  
Teachers College, Columbia University

### RECENT DEVELOPMENTS IN SCHOOL FINANCE AND TAX RELIEF

The reconstruction of the system of financing public schools now in process over the nation bids fair to play an important role in the whole movement for tax reform and tax relief. The last half-dozen years have shown marked progress in the analysis of the problem of financing public schools. Building upon the work of Cubberley, Swift and Updegraff, and the brilliant program established in

Maryland by Superintendent Cook, Strayer and Haig in the first volume of the Educational Finance Inquiry Report (Macmillan, 1923) clarified this problem and established a basis for the technical studies necessary to the application of the fundamental principles underlying school support.

In the analysis of the problem of financing public schools, the improvement of the tax situation was certainly not in the forefront. Educators were interested in carrying out the far-reaching provisions of our national ideals expressed in our various state constitutions. They were interested in breaking the impasse that has denied farm children, particularly, the advantage of an educational system fitted to present-day needs. They sought to unshackle poverty-stricken villages and cities. In short, they sought to free the fine initiative of the American people that has been slowly but surely encroached upon by continuously greater maladjustment in the financing system. Although they realized that education, as the most costly function of state and local government, suffers severely from maladjustment in the tax system, the emphasis in their analysis was upon obtaining a proper division between state and local government of the responsibility of support. It is but a coincidence that the solution of this major problem affords a superior vehicle for tax relief—that final step in which tax reform too often fails to culminate.

#### EQUALIZATION AND EFFICIENCY IN SCHOOL FINANCE PROGRAMS

There are two principles underlying an acceptable system of financing schools. These are the equalization principle and the school-efficiency principle. Each of them has more effective education as its prime purpose. The resultant, however, is a finance system that impinges upon the tax-relief problem. The equalization principle demands an equitable distribution of the burden of a minimum program. The efficiency principle demands that the minimum program of education and the other usual governmental functions supported locally shall be available to all localities without exhausting the major source of local revenue—the property tax.

In the present state of relatively over-taxed property, in most, and possibly all states, the resultant of these two principles is a minimum program of education costing approximately the same as education in districts of average wealth supported by a low uniform local tax, supplemented to the extent necessary by state aid alimanted from sources other than property tax. In New York State, for example, after a district levies six-tenths of a mill, the state provides additional revenue so that the district, however rich or however poor, will have available \$1500 for each elementary classroom and \$1900 for each high school classroom, with added amounts for non-resident tuition and transportation.

So far as the equalization principle is concerned, it would be possible to finance the New York program equitably on a local rate several times six-tenths of a mill. The use of a uniform rate lower than that necessary for equalization simply utilizes more state funds and thus brings added relief to the local property taxpayers.

#### STATE SUPPORT OF PRESENT EDUCATIONAL PROGRAMS

Since, by and large, the districts of a state are at or beyond the state's actual demands, the adoption of this plan results practically in a refinancing of a program already offered in all districts except the backward districts of the state. A refinancing of the program offered brings the local tax for schools, even in the poorest districts, down to the level of the other districts of the state. The result of the consummation of the most unambitious refinancing program will result in a reduction of taxes in some communities in a state without tax limits from 40 or 50 mills to a fair millage for the minimum program (six-tenths of a mill in New York State and from two to seven mills in the proposals before Pennsylvania, Indiana, Michigan, Missouri, Nebraska, Kansas, Colorado, Oklahoma, Wyoming) and in those with tax limits from the maximum level to three, four, or five mills. In other words, a district now offering the minimum program required or a better one can use all of the additional aid it receives for tax reduction if it so chooses. Inasmuch as the amount of aid bears an inverse relationship to wealth, the possible tax reduction goes in greatest amounts to those places which are carrying the heaviest tax burden to support the governmental functions delegated to them.

The only funds not available for tax reduction are funds which must be used in backwash communities to bring their educational programs up to the minimum level. But this does not mean that these districts will not obtain tax relief. Some of these schools that with unbelievable tax rates (in Kansas and Nebraska in some instances 50 or 60 mills) are able to operate a school only on the lowest literacy level will be able to expand their programs to the minimum level and operate their schools on the minimum millage (2, 3, 4, 5, 6 or 7 mills) with the resultant great tax reduction. This provides both the keeping of the state's promise to the boys and girls and the equitable treatment of its citizens.

It is not the poorer districts alone that obtain tax relief from the refinancing of the educational program. If the additional funds are obtained from sources other than property tax, tax relief is brought to every district in the state that receives equalization aid. While the amount of relief is greatest in the poorest communities, very great relief is experienced in the districts of average wealth and better than average wealth. If the local uniform rate of contribution to the minimum program is reduced to a low level, such as is



the case in New York State, marked relief is obtained even by the wealthiest communities.

#### RURAL RELIEF PARTICULARLY MARKED

Because of the many additional costs in rural areas that must be considered in the matter of a financing system, the need of relief is particularly great in rural areas, and the amount of relief obtained from a proper reconstruction of the financing system is correspondingly great. In many rural areas either a teacher must be provided for a very small number of children, which makes the per-capita cost of education higher, or the children must be transported before the actual expenditure on a normal-sized classroom begins. The proper system of school finance takes these points into consideration. The state recognizes the fact that a classroom with a small number of children is practically as expensive to operate as a classroom with a large number of children. The state recognizes transportation as an additional necessary charge in those districts which have elected to operate a more modern school organization, and the state recognizes the problem of purchasing high-school facilities for districts not having high schools, by taking into consideration the costs of non-resident tuition. A proper financing program makes the provision of necessary smaller classes, and the transfer of children to other school districts as easy a matter for the rural district as for the city or village district, that is not faced with the problem of small classes, of transportation, and of transfer. These items of expense connected with rural schools are therefore of great interest to the tax people as well as to the educational workers. Failure to adequately consider these added expenses of rural education has not only served as a handicap to the development of satisfactory educational opportunities for rural children, but has, to the extent that the rural people have struggled to provide these facilities, developed dire need for state action in the way of tax relief.

#### THE SCHOOL FINANCE PROGRAM AS A TAX RELIEF VEHICLE

There is, of course, no absolute assurance that funds sent by the state into localities for refinancing their present educational offering will not be used up by the localities themselves in providing more adequate educational facilities or will provide adequate facilities in other branches of government. There is nothing to prevent local communities from using all of the new tax leeway for more governmental expenditures rather than for tax relief. But this is an ailment common to all vehicles of tax relief. There is no assurance that a lowering of state-wide property tax will not be followed by a restoration of the state-wide property tax in order that the state may have funds for new state activities. There is no assur-

ance that funds passed back to county officials will be invariably utilized for tax relief, either immediately or permanently. The vast funds poured into the financing of highways have not provided tax relief in the sense in which it is generally used, inasmuch as these funds have gone largely for capital outlay and could not possibly represent any great amount in the reduction of those taxes for highway maintenance already being carried by the localities.

In the case of the school district the decision as to whether the funds will be used for tax relief or for better government is left to the decision of hundreds, yes, in too many states, to thousands, of local units. The decision, therefore, is not in the hands of a single legislature, or even of sixty or a hundred counties, but in the hands of hundreds or thousands of local units. In thousands of cases, it is literally in the hands of the people themselves, for the New England town-meeting type of control is still all too typical of the smaller districts throughout America. The common ailment is therefore in all probability less epidemic in the school-finance program of tax relief than in the other vehicles now available.

#### TAX RELIEF AND EDUCATIONAL EFFICIENCY

Our regard for local self-government in American commonwealths probably has its strongest expression in the control of education. The practical result of this is that the state must rely almost entirely upon the initiative of individual localities in working out the continued adjustments needed to keep the educational system abreast of the times. States rarely move on a state-wide basis with respect to the change of standards except as the way has been indicated by the experience in a large number of localities within the state. In this time of rapid change in our social order it therefore becomes essential that the state should set up those conditions which are favorable to the exercise of local initiative. Certainly the situation that exists today, where communities must finance local initiative by adding burdens to taxpayers who are already paying an unfair share of the cost of government, is one that not only fails to encourage initiative but actually throttles initiative. This is doubtless true in the able communities as well as in the poor communities, but it is particularly true in those communities such as farm areas that have had to carry disproportionate burdens to provide modern educational facilities. The provision in modern school-finance programs, therefore, for the state to take over a large share of the cost of the minimum program of education in all communities is a resultant of this need of a relieved unexhausted tax base which may be used to finance the local initiative upon which continued educational efficiency must so largely depend.

A decade ago educators believed that every dollar paid by the

state should be marked for educational expansion. The present concept provides for the use of state money to take the place of money already being paid by most localities in the support of an educational program, in order that those localities that desire better educational facilities may have tax resources available.

It is believed that the interest of the American people in public education is sufficiently great to bring about continued adjustment in the school system if the state will provide an equitable tax system. Under this plan many school districts will keep up their taxes—will spend at least part of the new leeway in an attempt to adjust the schools of today to changing conditions. They will thereby lead the state by the positive or negative results of their efforts to the continual adaptation of the schools. This adaptation is necessary if the money we spend is not to be money wasted on an antiquated educational system.

As educators, interested in the continued success and efficiency of the school system, we hope that a large share of the leeway provided by the new financing system will be used to finance such local initiative. We cannot be assured, however, that any or all of the leeway thus provided will be used for education. The decision must be the decision of the people concerned. Where they decide to use all or part of the leeway provided by the new financing system for the reduction of taxes, the result will be tax relief.

#### RECONSTRUCTING SCHOOL FINANCE A NATIONAL PROBLEM

New York State and Maryland have been used as examples in this discussion. The points considered are, however, of more than local interest. The fundamental revision of the system of financing public schools is a problem now before the people in such widely distributed states as Florida, South Carolina, Pennsylvania, Connecticut, Michigan, Indiana, Wisconsin, Missouri, Kansas, Nebraska, Oklahoma, Colorado, Wyoming, Utah, and California. This problem of reconstructing the educational half of state and local government with all its implications for educational opportunities for boys and girls, for school efficiency, and for equitable taxation, is a pressing problem that must be faced in every state in the Union.

**CHAIRMAN NEWTON:** The subject of highway finance was to have been discussed by State Highway Commissioner Grover C. Dillman, of Michigan. Unexpected burdens have made it impossible for Commissioner Dillman to be present today, but he did manage to complete his paper, at a considerable sacrifice of his personal time, and it will be read by Secretary Burtless of the Michigan Special Commission of Inquiry into Taxation.

## THE FINANCING OF A COMPLETE HIGHWAY SYSTEM

GROVER C. DILLMAN

State Highway Commissioner of Michigan

There are over 3,000,000 miles of legally established highways in the United States, of which slightly over 10 per cent are included in the state highway system, the remainder being county and other local roads. About 63 per cent of the state highway systems have been improved with some type of surface as compared to less than 20 per cent of the local roads.

No state has yet completed its major highway system to today's standards, and all states face heavy demands for greater attention to accommodating their secondary and local roads to the needs of motor traffic. The time was when the promoting of roads was the important and spectacular thing, but the onrush of the motor vehicle with its increasing uses creating demands for large expenditures for construction of new and existing roads and the maintenance of all highways has given this country a major problem, involving financing, administration and engineering technique.

To facilitate administration and financing and as an aid in determining the kind and extent of improvement, we will classify highways according to the characteristics of their prevailing traffic, namely:

1. Federal and state highways including urban streets which form part of such highways.
2. Secondary or county highways.
3. Local or township roads.

It is axiomatic that roads are valuable to the local communities, the state and the nation just in the proportion to the use made of these roads for local, state and inter-state travel. The origin of traffic should largely determine whether a road should become a part of the state trunk-line system. A road ceases to be of strictly local importance and deserves to be a state road as soon as a considerable portion of traffic, if sufficiently heavy, traverses more than one county to reach its destination. Likewise a road deserves to be a U. S. road as soon as a considerable portion of its travel crosses state boundaries to reach its destination.

If traffic is largely inter-township and inter-urban, but confined in origin to the county, then such a road should ordinarily be the obligation of the county. Traffic in townships and municipalities, which is wholly local, should be the obligation of the local municipal unit.

The complaints of tax burdens are many, but seemingly without

a correspondingly less demand for more miles of new, wider and heavier roads of higher type. Most states carry on a good construction program each year, yet in some cases traffic is increasing faster than the state is able to furnish the needed additional road facilities.

No highway should be improved by the expenditure of public funds in excess of its earning capacity. Thousands of miles of state trunk-line roads need not be paved and hundreds of thousands of miles of county and township roads need only occasional scraping and grading—even a full gravel surface might be extravagant. Our whole highway transportation system—federal, state, county and township—must be built up on the principle of providing economical transportation.

#### SOURCES OF INCOME AND DISTRIBUTION

The fundamental problem in highway finance is two-fold, pertaining first to the sources from which funds shall be collected and second, as to how these funds shall be allocated.

The changing of the status of the rural property owner's ability to pay for the higher type of road demanded by present-day traffic together with the increased use of rural roads by city-owned cars and trucks indicates that a gradual shift of the tax burden on real estate and other sources to the user of the highway is a constructive step in securing funds for highway activity. This change should be continued to a point where general taxation for highway purposes is reduced to a minimum.

Any assessment of abutting or benefited property should be proportional to the actual benefit to such property. Where highways have been brought up to the standard needed for agricultural purposes, special assessments on such land should, where practicable, be abandoned. Motor-vehicle license fees and gasoline taxes now constitute a big part of the amount of money raised annually to defray the cost of highway construction and maintenance. These user taxes should be applied exclusively for highway purposes and should be expended under the supervision of the collecting unit of government.

Motor-vehicle license fees and gasoline taxes now constitute the largest single source from which funds come for rural highway financing. According to Table I, the state highway department depends more upon motor vehicle revenues as a source of income than do the authorities responsible for the construction and maintenance of county and other local roads. Last year 82 per cent of the motor vehicle revenue for highway purposes was allocated to state highway departments and 18 per cent to the local authorities. Sixty per cent of the income for the support of the state highway

systems came from the motor vehicle user taxes, while only 16 per cent of the local highway income came from that source.

A study of the development of highway financing in the United States over a period of years reveals the fact that the motor vehicle is being called upon to contribute larger and larger sums toward annual costs of constructing and maintaining our rural highways. State financial policies and local conditions determine largely what proportion of the annual rural highway costs should be borne by the motor vehicle and the user of the highway, and how large a part the general public should assume through property taxes.

Aid granted by the Federal Government for the construction of roads on the federal highway system amounted to approximately \$77,500,000.00 in 1929.

The use of county funds for state highway construction is the practice in many states. However, this plan is not recommended and should diminish with the increase in revenue from other sources.

Both state and local governments are governed by the same economic principles in road improvements in the use of bonds. Thirty-one states have issued state highway and bridge bonds and there is no complete record of the county and local units of government having issued bonds for road improvement. Recent state bond issues have been predicated on the gasoline tax, which has proven sound financing.

Table II shows the percentage each source of income contributed to the total revenue for both state and local highway authorities in 1929.

The total amount spent last year for highway construction, maintenance and miscellaneous was \$1,320,557,384. (See Table III.)

TABLE I  
INCOME FOR HIGHWAY PURPOSES—1929

| <i>Source</i>                 | <i>For use of<br/>State Highway<br/>Departments</i> | <i>For use of<br/>Local Highway<br/>Authorities</i> | <i>Total</i>    |
|-------------------------------|-----------------------------------------------------|-----------------------------------------------------|-----------------|
| Tax Funds .....               | \$ 71,736,980                                       | \$489,171,093                                       | \$560,908,073   |
| Motor Vehicle License Fees..  | 278,092,734                                         | 51,886,324                                          | 329,979,058     |
| Gasoline Tax Receipts .....   | 287,258,416                                         | 70,492,878                                          | 357,751,294     |
| Bonds and Notes .....         | 161,229,297                                         | 110,635,146                                         | 271,864,443     |
| Federal Aid .....             | 77,572,001                                          | .....                                               | 77,572,001      |
| Miscellaneous .....           | 11,726,508                                          | 36,228,366                                          | 47,954,874      |
| Net Transfers, Local to State | 42,475,834                                          | .....                                               | 42,475,834      |
| Total Income .....            | \$930,092,460                                       | \$758,413,807                                       | \$1,688,506,267 |

TABLE II

PERCENTAGE EACH SOURCE OF INCOME CONTRIBUTED—1929

| <i>Source</i>                   | <i>For use of<br/>State Highway<br/>Departments</i> | <i>For use of<br/>Local Highway<br/>Authorities</i> | <i>Total</i> |
|---------------------------------|-----------------------------------------------------|-----------------------------------------------------|--------------|
| Tax Funds .....                 | 7.7%                                                | 64.5%                                               | 33.2%        |
| Motor Vehicle License Fees ...  | 29.9%                                               | 6.8%                                                | 19.6%        |
| Gasoline Tax Receipts .....     | 30.9%                                               | 9.3%                                                | 21.2%        |
| Bonds and Notes .....           | 17.3%                                               | 14.6%                                               | 16.1%        |
| Federal Aid .....               | 8.3%                                                | .....                                               | 4.6%         |
| Miscellaneous .....             | 1.3%                                                | 4.8%                                                | 2.8%         |
| Net Transfers, Local to State.. | 4.6%                                                | .....                                               | 2.5%         |
| Total Income .....              | 100.0%                                              | 100.0%                                              | 100.0%       |

TABLE III

RURAL HIGHWAY DISBURSEMENT—1929

| <i>Purpose</i>                                 | <i>By State<br/>Highway<br/>Commissioners</i> | <i>By Local<br/>Road<br/>Authorities</i> | <i>Total</i>    |
|------------------------------------------------|-----------------------------------------------|------------------------------------------|-----------------|
| Construction .....                             | \$557,400,625                                 | \$256,581,811                            | \$813,982,436   |
| Maintenance .....                              | 173,060,321                                   | 260,477,801                              | 433,538,122     |
| Miscellaneous Expenses .....                   | 23,580,867                                    | 49,455,959                               | 73,036,826      |
| Total .....                                    | \$754,041,813                                 | \$566,515,571                            | \$1,320,557,384 |
| Interest on Bonds and Notes ...                | \$ 45,834,531                                 | \$ 78,277,070                            | \$124,111,601   |
| Principal Payments on Bonds<br>and Notes ..... | 42,384,378                                    | 106,032,780                              | 148,417,158     |
| Net Transfers, Local to State...               | .....                                         | 11,097,809                               | 11,097,809      |
| Total Disbursements .....                      | \$42,260,722                                  | \$761,923,230                            | \$1,604,183,952 |

## THE RURAL HIGHWAY AND MEANS OF TAX RELIEF

The trend in population for the United States for many years has been toward the cities—from rural to urban. The 1928 estimated total national wealth was \$360,062,000,000, of which only 15 per cent was the estimated agricultural wealth. The millions of people living in urban centers owning motor vehicles are not and should not be content to live entirely within their boundaries. They travel by motor car and operate commercial vehicles over the vast network of rural highways throughout the country. There is no question but that the 15 per cent of the total national wealth is carrying a heavy burden in its contribution annually for the improvement and maintenance of rural highways.

The so-called "farm-to-market road" is not necessarily a rural highway. It may be anything from a road from the farmer's gate to the most congested trunk-line city street. All roads in agricul-

tural areas are literally "farm-to-market roads" and the state trunk-line roads are merely elongated city streets. The vast mileage of local rural highways must render highway service to the motor vehicle owner and to a large degree over gravel and other low-cost roads. Funds are not available and never will be available to construct the so-called permanent pavements on the greater portion of our rural mileage. Further, it would not be economical to do so. If any improvement is to be made in the efficiency with which local rural roads are handled it must be mainly through improved methods for handling the work, because it is not likely that any large amount of additional funds will be made available.

It would therefore seem best in approaching this subject to first find out something about the organization in various states now charged with the building and maintenance of these roads. In 26 states all roads are handled by the state or county, only 15 states having township road systems. Of the 7 remaining states, 5 classify their roads as state and town, and 2 as state, county and town roads.

Much money is being expended upon the township roads today, this coming from property taxes. The practical solution, I believe, of the township road question is for the county to gradually take over the township roads until they all become county roads. This would afford a direct and appreciable benefit to the rural property owner. If this relief in the manner of taxation is coupled with more efficient management, which should come from the handling of these roads by a well-organized county personnel, better rural roads would be the result with less burden to the taxpayer.

Another benefit that might be obtained would be through greater economy in local administrative costs. In some states there is a needless multiplicity of undersized, under-populated and under-financed units of government. These units of government could be enlarged without a surrender of the principles of local self-government.

A substantial increase in federal aid to the states has recently been granted to Congress, and this should have a tendency to liberate funds for the improvement of county and rural roads.

There should be a reduction of road mileage in the country. President Hoover in his message to Congress last December said: "Proper planning should materially reduce the listed mileage of public roads, particularly in the agricultural districts, and turn these roads back to useful purposes." The abandonment of rural highway mileage which has little economical value now and which has discounted possibilities of usefulness for many years is suggested as one source of relief.



## MICHIGAN'S HIGHWAY FINANCE PLAN

During the past twenty-five years Michigan has grown from a state depending largely upon its fields, forests and mines to one of the leading industrial states. Our population has been drifting to the cities during these years until we have only about 15 per cent living in rural communities. The value of all farm products produced annually in Michigan is about 10 per cent of the value of manufactured products.

In these few years we have seen the growth of the electric inter-urban railway and its almost complete passing from the picture. Along with it has gone a big part of the local business in both passengers and commodities for the steam railroads. During this period the summer resort and tourist traffic has grown to a point where it ranks as "big business". The motor vehicle has created the necessity for a costly system of highways, reaching out into every county, city and village of the state.

The three major items making up our highway fund, namely, the license tax, the gasoline tax and federal aid, will produce this year a total of approximately \$46,000,000. From this income there will be payable in fixed charges the following amounts:

|                                                                                                              |              |
|--------------------------------------------------------------------------------------------------------------|--------------|
| Cash refunds to counties from license tax and gasoline tax, to be used for development of county roads ..... | \$11,000,000 |
| State trunk line maintenance .....                                                                           | 6,250,000    |
| Amortization charges for state's fifty million-dollar bond issue...                                          | 4,082,000    |
| State reward payment to counties-townships last payment — law now void .....                                 | 310,000      |
| Trunk Line Maintenance to cities-villages .....                                                              | 528,000      |
| Highway Department Administration .....                                                                      | 280,000      |
| Maintenance and Construction Equipment .....                                                                 | 200,000      |
| Trunk Line Drain Tax .....                                                                                   | 250,000      |
| Total .....                                                                                                  | \$22,900,000 |

This will leave to the state for construction purposes the estimated sum of \$23,100,000. In other words, fifty per cent will be used to meet fixed charges and fifty per cent will be left for state construction purposes.

Reference is occasionally made to Michigan as a state taxing the motor vehicle through the weight and gas-tax laws out of proportion to what is done in other states. In 1929 Michigan ranked thirteenth among all of the states in the Union in the average motor vehicle license tax and thirty-fifth in the average gas tax per motor vehicle. In addition to the weight and gas tax, thirty-four states levy a personal property tax on motor vehicles. Taking the ad-valorem tax into consideration, Michigan ranked thirty-sixth among the states.

Last year a total of \$57,000,000 was raised for all highway purposes in the state, of which \$42,879,627.81 was motor vehicle weight and gas tax. This means that property through township and county levies is still bearing 25 per cent of the burden, and surely it does not support any plan calling for a reduction in the motor vehicle tax.

Five years ago the state assumed the obligation of paying the entire cost of construction and maintenance of the state trunk-line system. In this time the counties' share of the motor vehicle taxes has increased from \$2,800,000 to \$11,000,000 annually. The county road system of Michigan, embracing in the neighborhood of 16,000 miles, would have to be built and maintained at the sole expense of the counties if it were not for the present law which provides that the equivalent of one-half of the weight tax be returned each year to the counties. Since almost eighty-one per cent of the entire assessed valuation of the state lies within incorporated cities and villages, these municipalities are saved this year approximately \$9,000,000 in county road taxes.

There is no general property tax for state highway purposes. During the past six years Michigan has expended within the corporate limits of cities and villages an average of a little more than \$3,500,000 per year in the construction and maintenance of trunk-line streets. In addition to that we are paying from our current revenue yearly the sum of \$4,082,059.78 into the highway sinking fund to retire bonds, while it was the original intent that these bonds would be retired by general property tax. On the basis of assessed valuation the incorporated cities and villages are thus saved each year almost \$3,300,000.

The cities and villages will receive this year in cash approximately \$528,000 in state aid toward trunk-line street maintenance. This makes a total of approximately \$16,328,000 in direct payment in cash, invested in construction of trunk-line streets, saving the cities and villages in general property tax on the county road system, and for the highway sinking fund to retire bonds.

With the greatly increased use of motor vehicles and the annual increase in registration during normal times, the city streets on trunk-line routes are becoming crowded and many problems vital to both city and state are brought about. The state has an obligation to perform in helping to relieve such conditions and our program affords that relief.

The present plan of financing the building of Michigan's highway transportation system is not a question of tax distribution. It is based on the theory of raising in those communities which can best afford to pay it, enough money to satisfy the traffic needs of the state in which they are situated and whose highway traffic is so largely created by them. It is not and never can be a question of

whether or not certain cities or townships are getting their fair share of the tax raised to be used by them for improvements within their boundaries. If this were the true criterion on which to base our scheme of taxation for highways, then all money raised in any community should be returned to it and our theory of connected state and county systems is all wrong. The whole principle of federal and state aid in road building is predicated on taking some money from the rich and populous cities and counties and spending it on roads in the poorer cities and counties because there can be no system of federal and state roads worth the name unless these roads reach all the way across the nation or the state, as the case may be.

Approximately two-thirds of the total expenditures on the 16,000 miles of county roads in Michigan comes from the motor vehicle users' taxes. This affords a very substantial and direct relief to tax-bearing property.

The counties are taking over additional township roads each year, thus affording some financial help to the local units of government.

#### TRAFFIC SURVEYS AS AN AID IN SOLVING THE HIGHWAY FINANCE PROBLEM

"Useage" of highways must be considered in the administration of highway legislation. The obligation of the municipality does not cease as the highway extends beyond its corporate limits into the rural district. Municipal passenger vehicles for business and pleasure, commercial trucks, and common-carrier busses traverse the rural community roads and the obligation of the municipality by virtue of such travel of its vehicles is commensurate of the proportionate "useage" of the road. Such an approach to the subject must be based on facts analyzed with engineering technique.

The United States Bureau of Public Roads in cooperation with the Michigan State Highway Department is now carrying on a traffic survey which will extend over one year's time for classification. In any section of territory under study, determination will be made by direct classification of the status of each vehicle, whether it is of urban or rural character. In addition, the origin of the vehicle is determined, which will give for a particular road the following:

1. Density count of all vehicles—passenger cars, trucks, truck trailers and busses.
2. Classification of each vehicle—rural or urban character.
3. Origin of the vehicle.
  - a. If of a rural or urban character, is its general travel limited to the immediate township in which the road is located.

- b. If not, then is such travel of intra-county nature.
- c. If from neither the particular township or county, then is the "useage" of the certain road being made by vehicles originating from elsewhere in the state.

To simplify the work and yet cover the entire state road system, the 1276 townships existing in the state of Michigan were first listed in groups in accordance with their population, valuation and mileage of roads. In such groups so established there was noted a marked similarity of certain townships, and for the purpose of the survey a sample township was selected from each group, in which district a full analysis of all roads is to be made.

By a reversal of the process at the completion of the survey, data obtained from the sample district will be applied to the districts of similar character, and in this way the entire state will be covered by the analysis.

The one year of classification which will end July 15th, 1931, will give two regular counts for each day of the week at approximately 1000 station points throughout the state, or 14 counts at each station for the year. Such will give the daily traffic fluctuations as well as seasonal variations.

Tourist traffic is a known source of wealth to all states having particular natural attractions. Michigan is one of the states, and the survey will determine the value of the annual tourist business in the state. In addition the destination of the incoming tourist is being traced to the place where he makes his camp or stops for his vacation at a resort. This is a special problem of interstate and national interest that faces each highway department, and certain roads of possibly small concern to rural or immediate municipalities must be constructed to necessary standards for this type of travel.

The study is extended as well to cover all vehicular connections from the United States to Canada along the Michigan border. There is an important inter-city traffic between the two major countries, which traffic often extends well into the inland territories. The extent of such travel will be brought out by the survey results.

There still remain the numerous other factors usually entailed in the ordinary survey. That is, to what extent is the present system of highways best serving its purpose; is the county highway system acting as a medium of trunk lines to connect the rural district and township roads, or is it but a jumbled system of unrelated links? Certain county roads may be of such state-wide importance as to justify their inclusion in the state highway system. So likewise township roads of county-wide importance should be placed in the county system. Some township roads may be found as hav-

ing no community value whatever, to continue maintenance of which would be a waste of public funds, and their abandonment would be the only answer.

Heretofore the problem of construction and maintenance of the local or township roads has received but little specialized attention. Units were improved, usually at the option of local authorities, and there has developed a need of systemized attention to these local problems. Snow removal on the local road is often the problem of the farmer and the county, and the survey will shed some light on this phase of maintenance as well as rural road "useage" in general.

A special city traffic study will be carried out in seven of the principal cities in the state. The classification will be as follows:

1. Density of traffic (passenger cars, trucks, truck trailers and busses).
2. Origin of traffic, whether it is from the particular city or from a point elsewhere in the state.
  - a. If not from that particular city, then what proportionate amount originates in the township adjacent to the city in the county in which the city is located (other than the township) or from without the county.
3. Rural-urban classification of vehicles.

For a trunk-line highway passing through a city, there can then be determined the proportionate amount of through travel, its character, and where it is from. For all city streets at the city limits there will be determined the proportionate use being made of those streets by out-of-city cars, and in addition the centers of origin and nature of such out-of-city cars.

At completion we should have a better working basis on which to formulate proper finance legislation for our highways. Traffic surveys such as just outlined will indicate traffic needs to the end that an equitable distribution of state aid will be more accurately determined.

CHAIRMAN NEWTON: In opening the discussion on these papers, I feel that it is well to call your attention to the hour. It is now 15 minutes until 5, and I suspect that some of you have a number of things you want to say, and for that reason it might be advisable to have your remarks formulated as expeditiously as possible in order to be ready for the rest of the program later in the evening.

I want to make one statement on my own hook, and that is this, the state of Michigan feels rather proud of the fact that Doctor Mort, who spoke to you, is the adviser to our Educational Inquiry Commission, and that the drastic study, which was described to you and which is the most complete in any state in the Union at the

present time, is being made there by the United States Bureau of Public Roads with our highway department. Those two ventures represent tangible efforts on the part of Michigan to solve a tax problem that includes a consideration of the farmers' interests. The discussion is ready to begin.

ROY RAWLINGS (Rhode Island): I would like to say one word about this local autonomy. Being from New England, naturally we arise a little to the defense of any inference that a weak development of governmental systems may have come from New England. I have presided over the house of representatives of the state of Rhode Island for four years, and I also live on a farm in one of these local autonomies. I was very much interested in the talks of both Doctor Leland and Doctor Mort, but I am a little inclined to believe that the practical inferences that might be drawn from these talks might be drawn wrongly in some details. I graduated from a couple of colleges myself, but I found out that when I got out of college it took me several years to forget enough of what I learned in college to get down to a place where I could make a living for myself—not depreciating by any means the value of the theory which we get in college. I certainly would not take anything for the training which I did get, and the only reason today for which I rise is, as I said, as you would expect of any New Englander, to defend the New England town-meeting system. And I thought perhaps because of my close association with this part of the country my own experience might be of value to some of you.

Both of my grandfathers took government land in Illinois. I was brought up on a farm in Illinois, and when the time came when I should have to wait to inherit a small section of land, or buy land for myself for three hundred dollars an acre, tying myself up to it for the rest of my life, I did not go west but I went to Rhode Island. I went to an agricultural experiment station and I found out what they could raise on this almost worthless Rhode Island land. I found out they could do pretty well; so I went around and looked for farm land. I found a nice old colonial home, a good barn, and some buildings, with 1200 acres of land, which I bought for \$5000.00. I loaded my horses and implements, corn-planters and tools, household furniture, and so on, and sent my wife and baby ahead on the train, and I went on the freight car. So, I have been a farmer in Illinois and I have been a farmer in Rhode Island. I never knew a thing about governmental affairs in Illinois, but I was not long in Rhode Island before I found out a lot about politics. I believe that the inference that this municipality of governments has come from the New England system of town government, is wrong. I believe it has been misapplied.

Everybody in a town in Rhode Island understands the whole theory of government all the way through. We do not do anything with our counties. The counties are merely lines. We have courts, but they are allocated by the legislature. Each town runs its own business, and you might say in New England it is the national sport. It is not what it costs the town. The board of tax assessors in my town is made up of a leading manufacturer who gets thousands of dollars in salary, and has a million of dollars or more invested, one of the leading farmers and the Speaker of the House, myself, and we cost the town the whole sum, I think, of about \$75.00 for assessing the taxes each year.

Now, that is the place where it seems to me that this inference is wrong, as to a man making a business of that. In these towns of New England the people are so interested in their local government that they give up their time that you could not buy. I never heard this designation before—local autonomy—but I am glad to have gotten it, because, as I say, it impressed upon me particularly that I think the application is somewhat wrong. Of course, we cannot solve all these problems. This is farm day, and as an eastern farmer I would like to touch somewhat on the agricultural aspect, but I haven't time. I do want to make this one point. I raise corn in Rhode Island as cheaply per bushel as I could raise it in Illinois, and I sold it for a lot more money. Now, to me, from practical experience, it seems, except in the most isolated instances, that the farmers would help themselves a great deal if they would try to get as near to markets as they possibly could when they raise their stuff. Now, industries are developing all over the country. They are not going to be held just in Rhode Island.

CHAIRMAN NEWTON: One minute longer.

MR. RAWLINGS: Well, I am satisfied now. I did not want to let the opportunity pass to tell my fellow-countrymen here in the middle west that I do not believe that this New England town meeting is the thing which is out of date, yet. I think it could be closely copied and perhaps followed for practical application a good deal more than it is.

CHAIRMAN NEWTON: The Chair owes an apology to the last speaker for not having stated in advance that the discussion would be limited to the usual five minutes' time. I now recognize Mr. Edwards of Ohio.

JOHN S. EDWARDS (Ohio): Mr. Chairman and Gentlemen: I would say, as far as I am concerned, I will give you my permission to go ahead and work out a solution for Chicago, and when that has been accomplished and they have abolished a lot of those units up there, I will get a lot of satisfaction out of it.

Ohio had just such a traffic survey in 1925, completed perhaps in 1926, and I think perhaps this group of delegates after hearing this wonderful highway paper might be interested in having those facts very briefly brought out. That survey, conducted by the Federal Bureau of Public Roads, in conjunction with our highway department, demonstrated this fact, that in Ohio 87.7 per cent of the traffic were cars of city origin and city destination. To me it was utterly astounding. One can scarcely believe it. Yet it was carried over a period of a year and was properly handled in every particular, so that local influence had nothing to do with it. It seemed utterly astounding that that could be the fact, that 87 out of each 100 vehicles on the Ohio highways were from the city.

The problem of financing highways in Ohio has not yet devolved upon the user of the highway as it has in many states, although we are raising this year more than fifty-three millions of dollars from the gasoline tax and other taxes, and probably raise more than fifty millions of dollars from levies.

No state in the Union has drawn from its local unit of government for its highways as has Ohio. It has been a tragedy. I have had the pleasure of serving in our Ohio general assembly. I was on this special highway committee and traveled into some of our neighboring states, namely Illinois, Michigan, Wisconsin and Pennsylvania, where we made an inspection of the program, and none of those states have gone into the local unit of government like Ohio. If our Ohio people could have been relieved of that burden, our school burden would not have been nearly so great.

We are still, in many of our units, paying for bonds, levies up to three and one-half mills. That is the county and local unit of government.

We have a plan called cooperative, that is, the local units pay the cost and the state cooperates. We have a state system of highways of eleven thousand miles in Ohio; twenty-three thousand miles of county highways, and fifty-one thousand miles of township highways. That eleven thousand miles is improved in Ohio today. Sixty-five per cent approximately of the cost of that eleven thousand miles was taken out of the local units of government, and a lot is to be paid yet in bonds; so you do not wonder, I am quite sure, that we are having some trouble with local government.

E. S. TODD (Ohio): After what the gentleman from Rhode Island said, I suppose the college professor should not say anything. It reminds me of one of the finest compliments I ever received. Just a few weeks ago the chairman of the Rotary Club in an Ohio city, after I had finished a talk on taxation, said: "You are not half the damned fool I thought you were." Those of us who have anything to do with the study of rural problems, from the angle of



taxation, have our sympathies aroused, as we should, but as I sat listening to these papers this afternoon the thought came to me that we ought to emphasize three points in order to keep our heads when we are discussing a tax problem with reference to the rural community. The first point is this: We want to get away from the idea that sometimes takes possession of us, especially when we are talking to farm bodies, that the farm-taxation problem is a peculiar one. It applies equally to corporations and the owners of city real estate; and when we come to consider the burden of taxation with relation to income, I think we haven't any reason at all for singling out the farm proposition and saying it is an unusually difficult situation. I say that knowing full well the difficulties that the farmers all over the United States have had the last few years.

The second is this: In our zeal and in our enthusiasm in rural communities for the shifting of the tax burdens onto the state, especially with reference to schools and roads, we are likely to get into a lot of difficulty and to be tremendously disappointed when we think that by so doing we are going to necessarily reduce the tax burden on the owner of real estate and particularly on farm real estate, as I look at it from the standpoint of some of the problems we are studying in Ohio. If we do, as a great many want us to do, shift the entire burden for these purposes, and old-age pensions—we are talking about that too—to the state, then the question comes, where is the state going to get the revenue? Will the state under those circumstances be compelled to resort to some measure of a general property tax in order to raise the necessary funds to meet all these additional expenditures? As I see it, it is tremendously interesting and beautiful, from the standpoint of the owner of property, to think the state is going to carry all these burdens, but where is the state going to get the funds?

And the third point, and in my estimation a still more important one, is this: Last fall some of the folks in Ohio who are interested in the campaign for getting rid of our uniform rule—and since then, some of our enthusiasts—have been assuring the farmer particularly, that if we have a change in the tax system we will reduce the tax burden. I should like to emphasize that also this afternoon, and to sound a note of warning—at least the people in Ohio need it—that there is no system of taxation on earth, in my estimation, that will of itself and of necessity reduce the tax burden. As I study the problem more and more thoughtfully it seems to me the only way we are going to reduce the burden of taxation is through applying the notions put forward by Doctor Milbank Johnson last evening. If I have a minute I might illustrate. Two weeks ago last Sunday, I went up to a beautiful rural high-school building that stood where I taught a country school thirty-five years ago, and made one of the dedicatory speeches. The chairman of that

school board and of the committee on dedication said, "Now, this is a beautiful building, and it has everything we want." I think it had a swimming pool and almost everything in the shape of modern luxury. He said, "This is all right, but we must never be satisfied until we have other school buildings here like this, until we can equip our buildings through the junior college," and everybody except a few of us cheered him to the echo. Now, where is the money coming from? Those are the people who are going to shift the burden of schools to the state, but when it comes to shifting the responsibility for the organization of the school system I have no doubt they want to keep that in their own hands. That is just one illustration among many that might be given to show the futility of the idea of depending on a tax system.

One other point I might make in connection with Doctor Leland's paper is that, while he was dreaming about changes in state and national government, would it not be well to dream a little bit about doing away with the state legislature, and have a committee or some kind of board of directors for the state, to take care of the management, instead of relying upon the state legislature for three months.

HARVEY WALKER (Ohio): I suppose I should say before I start that I can lay a little claim to being a farmer. My parents homesteaded on a 160-acre farm in northwestern Oklahoma. I must plead guilty to being a college professor. I must out of fairness say, in view of the fact that I am now preparing the 1931-1932 budget of the state of Ohio, I am up against the proposition of trying to find revenues to meet an ever-expanding demand on the part of the departments and the people of the state.

There were several statements made and points raised upon which I want to comment. The gentleman from Rhode Island mentioned with great satisfaction the fact that the people of Rhode Island got their local government managed for them by highly competent men without a great deal of expense. We in the middle west find that in many cases the local governments do not spend much money but they do not get anything for what they do spend. Sometimes township trustees are expensive at any price. And I don't think we ought to forget that all townships are not blessed with having speakers of the House to call upon to serve as trustees.

Doctor Mort raised a very important question, it seems to me, when he defined the *status quo* so eloquently and said that we must provide a certain minimum education for every boy and girl in every remote back-wash section of our state.

We have in Ohio, down in the southeastern portion, some rather difficult country upon which to make a living. It is a truly mining section that has been worn out, and still there are people living

down there and they continue to have children. It has always been a wonder to me that people would have the temerity to locate themselves in isolation and demand that the public provide them the services that they would ordinarily receive if they were in some place where they could be served much more economically. Why should the state be called upon to pay the transportation of a child for ten miles to a school simply because the parents of that child wanted to buy a little piece of land out there in an isolated section, where the father thought he might be able to make a living, or at least where he could keep away from taxes? It seems to me that there is a problem that the states might well take into account, how to depopulate these marginal residents out in the areas in which they will never have a chance to make a living, and in which they will always be public charges. It seems to me that it is not justified in any sense of the word.

That same problem is bound up in the highway situation. The suggestion was made in Michigan that there might be some township roads that could be abandoned. A road is usually built for the purpose of serving some person who happens to reside off the highway. That evidently means that there are some sections in Michigan where the farms are being abandoned and the highways are no longer being needed. That is a fine thing, especially where the farms happen to be marginal farms and cannot be economically managed at the present economic levels.

I agree most thoroughly with most of the things Professor Leland said about the consolidation of local areas. I don't know how we are going to get the Federal Constitution so thoroughly amended as his plan would demand, but certainly we can make a start. I think we ought to recognize the fundamental conflict involved between Professor Leland's paper and Professor Mort's paper. Professor Mort defends the *status quo* by saying we ought to serve everybody just as they now stand, and Professor Leland suggests we ought to start on a program of consolidation to begin with.

JAMES H. STEWART (Montana): Mr. Chairman, I merely want to ask Mr. Thompson a question, if Mr. Thompson is here. In your excellent paper on the taxation of real estate in the average tax program, if I understood you right, in addition to administrative directions you recommend only the income tax. Could you tell me briefly what you would propose and do you appreciate that you will have to raise a considerable amount of money to offer any material relief to property?

MR. THOMPSON: It should be used in proportion large enough to really raise some revenue. For instance, in some states, as it is applied now, it does not raise enough revenue to relieve the property tax. I realize that. There is one thing very evident, and that

is this, if we are going to recognize the ability to pay, we have to recognize that property has borne the burden up to the present time. It has been increasing in value practically everywhere. Now then we come to the place where it is over the peak and we have a diminishing value. With an increasing fixed charge to meet the obligations it is going to be impossible to avoid the situation that confronted farm ownership and home ownership. If we can spread the burden equitably by an income tax, it should be of such proportion and of such consequence as will meet the requirements of this progressive age in which we are living. We have institutions and of course we expect to maintain them, and I don't think it would be burdensome if that burden was borne equitably by all the people, under the present circumstances, as shown by the evidence, on the basis of ability, through income. That has been determined since our national government has made research and found how much the income is, feeling that that is the source. I am not saying it should be limited to that alone. There may be other taxes by which we could supplement and maintain our governments, state and local, but the burden should be spread equitably.

MR. STEWART: If you will pardon another question: Does your organization approve the consumption or sales taxes?

MR. THOMPSON: We have never gone on record on any particular reform in taxation. We are studying it with the idea of taking it up shortly, as to what is going to be the best means. We are going to arrive at our conclusions as to what will be the best thing after studying the shortcomings of practically all the states. We find they are nearly all in the same boat.

MR. STEWART: Then you haven't any definite plan for anything, in the light of immediate relief. This program would undoubtedly require considerable time to work out.

MR. THOMPSON: It won't be done in a day, but if you don't start towards the shore you won't get there.

MR. STEWART: That reminds me, Mr. Thompson, if you will pardon me, of a situation like this: A drowning man thinks he sees something that will afford him some relief; he reaches for an object to save himself, but someone says, "Don't do that; around here, you know, is a raft that is unsinkable." He wants to get there to be safe. It would seem to me that something in the nature of a sales tax could afford immediate relief.

A. K. BARNES (Kansas): In the five minutes I may have I am sure I could not go very far into this tax subject. As to the speeches that I heard from the college professors, in particular, I have a lot of respect but not always entire confidence. If I am to

believe them today, I must believe that our government was improperly formed, and that we should at this time have a revolution and change this government. I have noticed this, that every time that we have taken our powers from the local and lower unit and given it to the higher unit, it has cost the taxpayer more money. As an example, what has happened to us as a nation in the matter of freight rates since we took the power away from the state and gave it to the nation? I could go on with a number of those situations that have cost us more money every time we have moved upward. Now, on this matter of taxation that this gentleman just brought up a little while ago, he proposes a sales tax. Now, I think a general sales tax would be the poorest thing that could be adopted. I believe in a selective sales tax.

We all admit that visible property is overtaxed. In answer to his question as to some way to relieve property, the one great way to relieve property is by the method suggested by Mr. Thompson. That is the one best way, the most equitable way, the way that sooner or later we must adopt, or else we have got to lower our national, state and county standard of living.

Now, the two great things that cost us money are the schools and the roads, so far as I have been able to see. When they talk about getting a better school system than we have, it is also always a more expensive system.

So far as getting away from some of the tax on roads, I proposed at the last legislature in Kansas, where we are paying fifty per cent of road taxes by the route of the property tax, that we increase the gasoline tax, and put more money of the county back into the township. If we want to reduce taxes I think that would be a good way to do it. The farmer, when he gets on his local road or any other road, pays his part of the construction and maintenance of that road. There are other forms but I hope the people of this country will soon put some of the money from the gasoline tax back into the rural communities, because the rural communities have been spending so much money building these trunk lines. It will be a benefit to the country at large.

F. S. EDMONDS (Pennsylvania): I worked two winers on a farm, and like the man that told the story about the chickens, I put some in and never got any out. On this government proposition, I think my friend from Rhode Island there has misunderstood the exact thought that is in our minds. It is not so much taking away from local government its control of local affairs as it is modernizing local government. In Pennsylvania we have one county which has all the local machinery that was created by William Penn; it has a sheriff when there is nobody to arrest; there is a coroner but nobody dies in that community; no accidents occur there, yet there

is a district attorney. That is all a liability to the community. The only thing which they consolidate is the courthouse. They have one judge for four counties. When he gets into this particular county he tells me he has four terms a year, and one term lasts less than one week. It takes about three days to wind up the legal business of that particular county for one term. Why would it not be worth while to consolidate on district attorneys and sheriffs as well as on the court? Why would it not be worth while to bring them into the work of the isolated units? Take, for instance, recording deeds. There is a recorder of deeds in that county; he records probably twelve or thirteen a year, and they are in the usual form, that is, longhand, and somebody is employed as a clerk for that particular purpose. In Chicago they have a method of photostating records for three cents a unit and in this particular county it costs about a dollar.

Now, that is the kind of reforms that people are asking for, namely, that local government which was created in the early days, when each community was isolated and had to be complete in itself, be brought up to date. If the local government will take the advantages that come with modern science and discovery and bring itself up to date it will reduce costs. That, in my mind, is a reasonable proposition, and does not involve a surrender of local autonomy.

I listened with great interest to Professor Leland. It is worth while noting that the dean of the tax men of all this country, Professor Seligman of Columbia University, has at one time stated that there will be one government collecting all the taxes and apportioning them to the states, and the states apportioning to the localities. I do not believe it myself, but at the same time it is worth while bearing in mind that there are tendencies along that line. But, when people are asking that local government be brought up to a modern status of economic efficiency, they are not asking for a surrender of local autonomy, or anything of that kind. They are only asking that modern methods be brought into what is an unbusiness-like procedure at the present time.

R. W. CAREINGTON (Missouri): I am a taxpayer of Kansas City. I want to read a tax statement that was put upon us in Kansas City, Missouri. On a certain valuation the state tax was \$11.98, the county tax \$56.98 and the school tax \$114.77. Now, a great many people — and I am one of them — do not object to children getting education, but I want to say that our schools here are idle too much of the time. They might be employed a little more in the teaching of children, instead of from nine to four o'clock, with a long vacation. As one gentleman said, it took him three years to get into a commercial activity after he had secured a diploma.

Now, instead of putting in more schools and doubling our force, let us use the schools for commercial education. A great many young fellows have an aversion to work, or they do not know how to approach a merchant. They have the background for learning. It might be well enough to give these young men more commercial education than they are getting.

Now, in relation to road construction, I find that our roads, which have been built at a great price, are breaking through the center. They are built up hill and down hill without reference to getting close to water level. The closer you get to that level the better is its utility. Now, if these political contractors were not in such a hurry to get hold of this money, we might have had wider roads and better roads. They are trying to say not to make the load so heavy. The trouble is not with the loads, the trouble is with the construction. This state is underlaid with rubble stone from one end to the other, which could economically be used for the construction of roads, but the contractors, responding to the demands of the cement trust and the sand trust, have come in here and they have built roads that won't stand up. The road leading out of here to Excelsior Springs, in the common parlance of the village, is as crooked as a dog's hind leg. It would not have cost a great deal more to have cut down the top of those hills so it would have reduced the cost of maintenance. We are trying to help the farmers. Why take this all away from the farmers? If these farmers have rubble stone on their premises, take it out, and put in a stub base and mix the rubble with something that will work well. Give these people a chance to pay their taxes outside of what you get from the ordinary income from automobiles.

There was another remark made here, about the Federal Government coming into the states and taking over certain activities. Our forefathers were not fools. The only thing that originally was delegated to the Federal Government by the Constitution was the question of the control of navigable streams, foreign relations and questions between states.

CHAIRMAN NEWTON: The time of the gentleman has expired.

JOHN H. LEENHOUTS (Wisconsin): I just want to give you briefly what our experience has been with the income tax. It may be helpful in giving Mr. Thompson an answer. Our experience is this, that in the last year or two we have lifted the burden on real estate, at least to the extent of from 12 to 13 per cent. Of course, the average taxpayer doesn't know that, because he has been spending more money; but the 12 to 13 per cent that we have saved by the income tax meant just that much saving in additional levy on real estate. That is our experience in Wisconsin of what the

income tax will do it you will administer it properly. If it is administered as our law is administered it will produce results.

Of course, the difference between the purchasing value of the dollar of ten and fifteen years ago and the present time must be recognized. The average taxpayer doesn't recognize that, and therefore he does not always know that his taxes really have been lifted in some degree by this form of tax. I might suggest to Mr. Thompson that I am sure it would have a beneficial effect if more of the states adopted an income tax, which will be administered properly, and with a rate high enough, not with a rate of one per cent but we go up to a six per cent rate, and an addition practically of one per cent for sur-tax above certain amounts.

JOHN E. BRINDLEY (Iowa): It is getting late. I just want to refer to one fact. There was a very interesting paper presented here this afternoon in connection with which I would like to bring out one fact. That fact is that in the last quarter of a century in Iowa we have completely eliminated the township in road administration. About 25 or 30 years ago we had the old task-master system, but the last general assembly passed an act which took all those functions away under that system. At the present time we have prepared a bill which, if it should pass the next general assembly, would eliminate the office of township assessors because the recommendation is for appointive county assessors. Strange as it may seem, I think there are very good chances of this measure passing; and I thought it would be appropriate to read into the record this afternoon the fact that we may have one seat at least in the near future without any township functions of a fiscal character whatever.

EDWARD R. LEWIS (Illinois): I don't know that I have any right to speak here. I have been counting up the qualifications. In the first place, I was not born on a farm. I am not a collector of taxes. I am not a college professor, and I come from Chicago; and I don't know that anybody who comes from Chicago has a right to say anything. Mr. Edmonds stole some of my thunder. I think that about half of my speech is gone. If his comment on the speeches of Professor Leland and Professor Mort is accepted, there is perhaps very little quarrel left.

But there seems to be a conflict here between two theories of government. I call it the conflict between efficiency and liberty, or between efficiency and individual development. I confess when I saw some of the results of the efficiency of the old German government, I thought I never wanted to hear the word "efficiency" again. There is such a thing as getting an efficiency which leads to inefficiency. Perhaps the conflict might better be called one between temporary efficiency and permanent efficiency.



I think we all remember that in school we learned that in France the country was governed by intendants, later called prefects, sent out from the central government; and England had local government administered by the squires and local gentry. It was an oligarchy, perhaps, but there were always some people locally who were always learning something about government. They got an experience that the French people did not get, and I think that is one reason why constitutional government and parliamentary government developed in England long before it did in France. The same thing comes up on the jury system. We hear people kicking about the jury, calling it a worthless institution; and yet Oliver Wendell Holmes, justice of the United States Supreme Court, declared recently that he is a firm believer in the jury, and he says one of the main reasons he is a believer in it is because "I notice they mix a great deal of human prejudice in their verdicts," and in that way the law is kept closer to the actual opinion of the community than if we had a lot of intelligent judges, well trained, who were deciding questions of fact, more efficient for ten years but less efficient over two hundred years. I think that is the fundamental conflict.

Nobody disagrees with Professor Leland or Mr. Edmonds that such monstrosities as we have in Cook County—I forget how many hundred taxing units—should be eliminated.

In my last half a minute, I would like to add that I agree with Professor Mort that 100 people in Podunk, in a little back-water county, are just as important to the state as 100 people in the city of Chicago, or New York or Detroit, and we do not know from which 100 will come our Abraham Lincolns, our Thomas Jeffersons, our Charles Lindberghs, or our Thomas Edisons of the future.

CHAIRMAN NEWTON: Is there anybody else who cares to be heard? This discussion has lasted now almost one hour.

M. M. DOUGHERTY (University of Delaware): It seems to me you can save a lot of money if what has been said about the college professor is true. If they are ignorant and use a lot of words that frequently sound good, to save my soul I do not understand why people go to college. If they are that kind of people I cannot understand why taxpayers will pay money to send their children to school, to learn from this kind of people. I would suggest that you would save a lot of money if you will keep your children at home. In order to get better college professors I suggest you pay more money.

CHAIRMAN NEWTON: If no one else is prepared to continue the discussion, I will call this session adjourned.

(Adjournment)

## FOURTH SESSION

TUESDAY, OCTOBER 21, 1930

8:00 O'CLOCK P. M.

CHAIRMAN FAIRCHILD: I would suggest that those of you sitting in the back of the room come forward and occupy the front seats. It will be more agreeable for you and far easier for the speakers.

The chairman is being assisted by a very courteous staff of presiding officers at this session, and it is a pleasure to me, and a pleasure which I know you will appreciate, to have our conference presided over this evening by R. C. Norman, the distinguished tax commissioner of Georgia. It gives me great pleasure to present Mr. Norman and to turn over the further conduct of this session to him.

R. C. NORMAN, presiding.

CHAIRMAN NORMAN: The first paper on the program is the report of the committee of the National Tax Association on the Taxation of Motor Vehicle Transportation. I take pleasure in recognizing Professor James W. Martin of the University of Kentucky, chairman of the Committee.

PROFESSOR JAMES W. MARTIN (Kentucky): Mr. Chairman: Before presenting the report of the committee on motor taxation and related taxes let me make two preliminary observations.

In the first place, the indebtedness of the committee to two or three gentlemen is greater than is suggested in footnote acknowledgments. The first is Mr. Warner Tufts of the National Association of Motor Bus Operators, who has been exceedingly generous in assisting the committee both by providing materials otherwise inaccessible and by thoughtful comments in correspondence. The second is Professor C. H. Sandage of Miami University, with whom your chairman has been in continual contact for several months. Mr. Sandage has been generous enough to give unsparingly of his time and thought. Others who have offered suggestions or provided materials include Messrs. W. B. Belknap, former chairman of the Inheritance Tax Committee; M. M. Daugherty of the University of Delaware; J. C. Jones and Edgar Z. Palmer of the University of Kentucky; R. W. Keenon of the Consolidated Coach Corporation, Lexington, Kentucky; Edward F. Loomis of the

National Automobile Chamber of Commerce; Charles F. Marvin of the United States Bureau of Standards; Frank Orr of the Sinclair Companies; William H. Stauffer of the Virginia State Corporation Commission; and the American Road Builders Association, American Association of State Highway Officials, Highway Research Board, Bureau of Public Roads, and Motor Vehicle Conference Committee.

In the second place, in order to absolve other members of the committee from responsibility for errors of computation and interpretations of statistics, it ought to be admitted that the investigations reported here were prosecuted by the chairman and that other members of the committee are jointly responsible only for recommendations as to policy.

## REPORT OF THE COMMITTEE OF THE NATIONAL TAX ASSOCIATION ON TAXATION OF MOTOR VEHICLE TRANSPORTATION

JAMES W. MARTIN, CHAIRMAN

Director of the Bureau of Business Research,  
University of Kentucky

### I. INTRODUCTION

The whole field of motor-vehicle taxation can be conceived as involving two aspects. (1) Motor vehicles are subjected to special highway privilege imposts. Concerning such taxation, the following conclusions of earlier National Tax Association committees<sup>1</sup> are accepted: (a) Motor fuel should be taxed without discrimination on account of the particular transportation service the vehicle in which it is used renders,<sup>2</sup> and (b) a registration tax based on gross weight of vehicle and load and on tire equipment should be imposed on all classes of vehicles regardless of use.<sup>3</sup> (2) The motor vehicle and sometimes the income derived from its use are

<sup>1</sup> The National Tax Association has taken an active part in the discussion of the problems involved in motor taxation. As early as 1924, a committee of seven reported on "The Problems of Highway Finance" (*Proceedings*, pp. 411 ff.), emphasizing rural aspects and especially the relation between state, local, and federal government. Again in 1928 and 1929 committee reports on commercial motor-vehicle taxation were offered (*Proceedings*, 1928, pp. 182 ff., 1929, pp. 468 ff.). The present committee is the first called on to deal specifically and generally with motor-vehicle taxation alone. The terms of the appointment of this committee contemplate a study of the "taxation of motor vehicles and related taxes throughout the United States" (Press release from office of President Fred R. Fairchild, Feb. 5, 1930).

<sup>2</sup> "Problems of Highway Finance," *op. cit.*, pp. 428, 429; "Report," *op. cit.*, 1929, p. 468.

<sup>3</sup> "Problems of Highway Finance," *op. cit.*, p. 429.

taxed for general purposes. Also the operation of enterprises such as common-carrier motor transport is often subjected to a general tax for the privilege of carrying on the business. The first form of general tax ought to be sharply differentiated from the second. In the United States the special and the general imposts are often only vaguely or not at all distinguished in practice; but there seems to be a commendable tendency in recent legislation to draw the line between them.

The largest and most difficult problems of motor taxation arise from the needs for highway revenue. Consequently, to indicate the proportions of the road-building programs—physical and financial—will show the importance of the most significant phase of this inquiry. The magnitude of the physical task is suggested by the fact that, on January 1, 1930, there were in the United States a little more than three million miles of rural highway, of which only about 20 per cent had been surfaced. Of the 20 per cent, less than one-fifth was paved with bituminous macadam or better material. However, about 65 per cent of the state highway mileage, which carries 50 to 90 per cent of the total traffic, had been paved, though only one-third of that with bituminous macadam or higher grade surface. To express the situation in terms of potential road use: At the end of 1921 there were roughly twenty-seven motor vehicles a mile of paved rural highway, while by the end of 1929 the number had increased, in spite of extraordinary road-building activity, to about forty vehicles a mile. Thus there is a large problem of new construction before the country, varying of course from state to state, and also, in view of the prevalence of low-grade construction even where the roads have been paved, a need for large sums of maintenance. It should be emphasized, however, that the achievements and needs of the several states differ widely.<sup>4</sup>

Speaking in financial terms, the highway program of the country at the present time demands an annual sum of more than two billion dollars.<sup>5</sup> This figure includes the expenditures of cities as well as those of state, district, county and township road-building agencies. While each of the three classes of governmental units—city, state, and rural local—expended about equal sums in 1927, there is a tendency, as indicated in Table I, for the state share of rural expenditures to increase more rapidly than the local.

<sup>4</sup> Cf. Charles M. Upham and D. R. Lamson, "Highway Finance" (report of the general committee), *Convention Proceedings, 1930*, American Road Builders' Association, pp. 226-250 at pp. 230-234.

<sup>5</sup> See Table I.

TABLE I  
TREND OF HIGHWAY EXPENDITURES IN RECENT YEARS  
(In millions of dollars)

| Year       | State <sup>a</sup> | Local Rural | Urban <sup>c</sup> | Total              |
|------------|--------------------|-------------|--------------------|--------------------|
| 1922 ..... | 430                | 498         | 341                | 1,239              |
| 1920 ..... | 587                | 600         | 542                | 1,729              |
| 1927 ..... | 668                | 643         | 614                | 1,925              |
| 1928 ..... | 765                | 659         | ...                | 2,038 <sup>d</sup> |
| 1929 ..... | 800                | 645         | ...                | 2,059 <sup>d</sup> |

<sup>a</sup> Computed from Bureau of Public Roads, "Total Disbursements for State Road and Bridgework under Supervision of State Highway Departments," by eliminating repayments of debts.

<sup>b</sup> Computed from United States Bureau of Public Roads, "Local Road and Bridge Disbursements," by eliminating repayment of debts.

<sup>c</sup> Computed from United States Census Bureau, *Financial Statistics of Cities, 1927*, pp. 326, 350 and 358. It is assumed that interest on street debt is proportional to the amount of city highway debt. (National Industrial Conference Board, *Cost of Government in the United States, 1927-1928*, p. 43). Expenditures for incorporated places of less than 30,000 population are not shown for lack of data.

<sup>d</sup> Assuming no change in urban expenditures since 1927. (Data for 1928 and 1929 have not been published.) In fact, there have doubtless been increases.

## II. SPECIAL HIGHWAY TAXATION

One of the most significant questions of highway finance in general and motor taxation in particular is: What part of the total highway bill shall be paid by means of special taxation of motorists, and what part shall be paid out of revenues derived from other sources? Shall none of the cost be assessed thus against road users? Shall only the cost of new construction be charged to motorists? Shall only the bill for maintenance or that for maintenance and reconstruction be charged to motorists? Or shall all of the cost of all highways be met in this manner? <sup>6</sup> At one time

<sup>6</sup> For various views on this point, aside from those presented by the National Tax Association committees, see: American Association of State Highway Officials, *Principles of Highway Administration and Finance* (widely circulated pamphlet); *Automotive Industries* (editorial), "Operators Waste 80 Per Cent of Trucks' Usefulness," June 17, 1926, p. 1041; R. M. Haig, "A Challenge to Accepted Theories of Highway Finance," *Engineering News-Record*, May 11, 1922, pp. 790-792 (discussed editorially, p. 765); S. E. Bradt, "Relation of Motor Vehicle License to Highway Construction," *ibid.*, June 8, 1920, pp. 73-74; Roy D. Chapin, "Distribution of Cost of Highway Construction," *Highway Transportation*, Jan. 1923, pp. 30-32; Detroit Automobile Club, *Suggested Basis of Motor Vehicle Taxation* (pamphlet); J. T. Donaghey, "Motor Vehicles Finance Wisconsin," *Engi-*

or another proponents of each of these suggestions have appeared. Once this question is satisfactorily answered, another arises: What shall be the form of the special tax or taxes imposed on the motor vehicle operator or user of the highways?

1. AMOUNT OF SPECIAL HIGHWAY CONTRIBUTION  
FROM MOTOR VEHICLES

a. *The situation in general*

Examination of Table II discloses that, so far as rural highway expenditures are concerned, the trend is in the direction of using special motor-vehicle taxation for a larger and larger portion of the total. While the absolute amount of revenue derived from motor vehicles has continually increased since 1904 (the first year for which any comparative data are available), there is less steadiness in the percentage figures shown, because during the World War when more and more motor vehicles were being used capital outlays for highways were severely restricted. Thus the percentage of total expenditures represented by the 1918 special tax revenue of only about fifty million dollars was distinctly greater than that represented by two and a half times as much similar revenue three years later. Since 1921, the first year in which the country spent a billion dollars for rural highways, there has been a steady climb in aggregate expenditures year by year accompanied by an even more rapid ascent in the figures for special vehicle-tax revenues, as clearly indicated by the last column of the table. These data are somewhat in error. In the first place, certain revenues reported as receipts from motor-vehicle registrations are essentially from general taxes, since several states have imposed the motor license in lieu of the property tax, levied on other forms of tangible personalty, thus in effect substituting a part of the registration for the property tax. This error amounts in recent years to roughly forty million dollars

*Engineering News-Record*, April 23, 1925, p. 695; Thomas P. Henry, "The Motorist Pays—and Pays," *Independent*, October 17, 1925, pp. 437-439; A. R. Hirst, "What Car Owners Should Pay for Road Building," *Engineering News-Record*, December 13, 1923, pp. 967-968; J. G. McKay, Chairman of Committee Number 6, "Report on Highway Finance," *Proceedings of the Third Annual Meeting of the Advisory Board on Highway Research*, National Research Council, 1924, pp. 111-124; Motor Vehicle Conference Committee, *Special Taxation for Motor Vehicles*, 1923, pp. 2-5, and *ibid.*, 1930, pp. 5-7; *Railway Age* (editorial), "Who Builds the Highways," Dec. 9, 1922, p. 1082; Jacob Viner, "Investigation of Urban Aspects of the Highway Finance Problem," *Proceedings of the Fifth Annual Meeting of the Highway Research Board*, National Research Council, 1925, pp. 206-238; John N. Willys, *Highway Finance*, National Automobile Chamber of Commerce; and J. A. Zangerle, "Taxation and the Automobile: Why Tax the Motorist for Roads when Real Estate Derives the Greatest Benefit?", *Ohio Motorist*, November, 1920, pp. 20, 30.

TABLE II  
SOURCES OF RURAL HIGHWAY REVENUES OTHER THAN FROM GENERAL TAXES AND BONDS  
COMPARED WITH TOTAL HIGHWAY EXPENDITURES FOR SELECTED YEARS <sup>a</sup>  
(Amounts in thousands of dollars)

| Year      | Total<br>Expenditure | Federal Aid        |                         | Registration Tax<br>Revenue |                         | Gas Tax Revenue |                         | Total Motor Tax<br>Revenue |                         |
|-----------|----------------------|--------------------|-------------------------|-----------------------------|-------------------------|-----------------|-------------------------|----------------------------|-------------------------|
|           |                      | Amount             | Per cent<br>of<br>total | Amount                      | Per cent<br>of<br>total | Amount          | Per cent<br>of<br>total | Amount                     | Per cent<br>of<br>total |
|           |                      |                    |                         |                             |                         |                 |                         |                            |                         |
| 1904..... | 79,624               | .....              | ..                      | 50 <sup>b</sup>             | 6.1                     | .....           | ..                      | 50                         | 0.1                     |
| 1914..... | 246,264              | .....              | ..                      | 12,382                      | 5.2                     | .....           | ..                      | 12,382                     | 5.2                     |
| 1918..... | 245,131              | 1,400 <sup>c</sup> | 0.6                     | 51,477                      | 21.0                    | .....           | ..                      | 51,477                     | 21.0                    |
| 1921..... | 1,001,588            | 79,333             | 7.9                     | 122,479                     | 12.2                    | 5,302           | 0.5                     | 127,781                    | 12.8                    |
| 1926..... | 1,187,596            | 79,163             | 6.7                     | 288,282                     | 24.3                    | 187,603         | 15.8                    | 475,885                    | 40.1                    |
| 1927..... | 1,311,797            | 80,400             | 6.1                     | 301,061                     | 23.0                    | 258,839         | 19.7                    | 559,900                    | 42.7                    |
| 1928..... | 1,423,870            | 80,768             | 5.7                     | 322,630                     | 22.7                    | 304,872         | 21.4                    | 627,502                    | 44.1                    |
| 1929..... | 1,444,660            | 77,573             | 5.4                     | 347,844                     | 24.1                    | 431,312         | 29.9                    | 779,156                    | 53.9                    |

<sup>a</sup> Except as indicated, figures are taken from publications of the Bureau of Public Roads.

Data for total expenditures for 1921 and subsequent years have been adjusted by eliminating payment on bond principal.

<sup>b</sup> Estimated on basis of statistics of collections in New York and Massachusetts.

<sup>c</sup> Estimated on the basis of statistics for fiscal years 1918, 1919. *Annual Reports of Department of Agriculture, 1919, p. 398.*

in the registration-tax statistics.<sup>7</sup> Another source of error tending toward an overstatement of the special motor-registration receipts is found in the fact that certain general public utility taxes on common-carrier busses and trucks are reported along with the registration tax receipts. The amount of this general tax element is unknown. However, though these two considerations are important, they do not invalidate the conclusion from analysis of Table II to the effect that there is a trend toward charging a larger and larger percentage of the total rural motor road costs to motor vehicle operators. If the total error due to these two factors aggregated twenty million dollars in 1921, fifty million in 1926, and seventy million in 1929, for example, the percentages of total highway expenditures raised by means of special motor-vehicle taxes would have amounted to 10.8 per cent, 35.9 per cent, and 49.1 per cent, respectively. As a matter of fact, the change in the size of the error has probably been less than the difference between twenty and seventy million; thus the increase in the percentage has actually been greater than this hypothetical illustration would imply.

Moreover, the two sources of error tending to make the data in Table II overstate the actual percentage of the total highway expenditures constituted by special motor revenues are at least partly offset by the fact that these include only *state* revenues. As a matter of fact, a considerable amount of money is raised by means of county and municipal motor registration and gasoline taxes. While there are no adequate statistics of local gasoline tax collections, it has been carefully estimated that the total registration taxes imposed by cities aggregate approximately twenty-seven million dollars.<sup>8</sup> Since gasoline taxes are imposed by a number of cities and perhaps a few counties, it is unlikely that the total bill for local taxes on gasoline and the registration of motor cars is under thirty million dollars.<sup>9</sup> It may be considerably above this figure.

If it were possible to make accurate adjustments on account of these several sources of error in the data presented in Table II, the general tendency would still be present: (a) Highway expenditures have shown a continuous increase since 1904, and a most extraordinary growth since the close of the World War; (b) revenues

<sup>7</sup> Estimate based on an unpublished study by the chairman of the committee.

<sup>8</sup> Computed from data given in Martin, "Neglected Aspects of the Taxation of Commercial Motor Transportation," *Proceedings*, 1920, p. 517. The National Automobile Chamber of Commerce estimates total municipal taxes (presumably both registration and gas taxes) at twenty million dollars. See *Special Taxation for Motor Vehicles*, 1930, p. 3.

<sup>9</sup> The general business taxes imposed on common carriers have been eliminated so far as possible from the estimate given. A modicum of revenue from that source still remains, however, in the figure estimated.



from special motor taxes have shown an even more rapid growth; so that (c) the percentage of the total expenditure paid from special motor revenues is greater from year to year.

b. *Special taxation in particular states*

While Table II shows that, in 1929, the country as a whole derived about 54 per cent of its total rural highway expenditures from special motor-tax revenues, Table III indicates frequent variations from the general situation. For example, Georgia secured 86.3 per cent of her money for rural roads from special motor taxes; Nevada<sup>10</sup> derived from this source only 28.9 per cent and Vermont 30.3.

These variations in the percentage of the total rural highway expenditures, which the various states raise from motor-vehicle taxes, arise from the various policies pursued by the legislatures of the several states as to the different types of taxes which they use, the amount of highways to be constructed and maintained, the division of the function of highway construction and maintenance between the state and the local units, and the use of state grants. This is self-evident, but can we find any factors which help determine these variations in legislative policy?

One explanation sometimes offered for the wide differences is that poor states, unable to secure more revenue from general sources, follow the practice of collecting an abnormally large percentage of highway expenditures from road users. It will be observed, however, that the table indicates that Mississippi and Alabama, the two poorest states in the Union,<sup>11</sup> derive considerably less than the country's average of total rural highway expenditures for special motor taxes; though Georgia, another poor state, derives the largest percentage from such taxes of any commonwealth. Moreover, Nevada, the richest state, secures the least percentage of her highway expenditures from special motor taxes, though Oregon and California, two other very wealthy states, derive a relatively high percentage of their highway income from motorists.<sup>12</sup> A careful comparison of the data in Table III with information as to the distribution of wealth by states reveals that there is no rela-

<sup>10</sup> It is important to note that Nevada and other public-land states enjoy special privileges under the terms of the Federal Highway Act of November 9, 1921. That is, the ratio of state contribution to the joint state-federal fund decreases as the percentage of public land within the state increases. It is important to keep this fact in mind in interpreting data given in the text.

<sup>11</sup> Bureau of the Census, *Wealth, Public Debt, and Taxation: 1922: Estimated National Wealth*, Table 8.

<sup>12</sup> It is to be noted that Oregon is one of the states which exempts motors from property taxation, though taxing other classes of tangible personalty.

TABLE III  
RELATION OF SPECIAL MOTOR TAXES TO RURAL HIGHWAY EXPENDITURES  
BY STATES, 1929<sup>a</sup>

(Amounts in thousands of dollars.)

| States              | Highway Expenditures |                          | Motor Tax Receipts  |                       |        |                                              |
|---------------------|----------------------|--------------------------|---------------------|-----------------------|--------|----------------------------------------------|
|                     | Total                | By State Road Department | From Gasoline Tax   | From Registration Tax | Total  | Ratio of Total to All Expenditures, per cent |
| Alabama .....       | 28,010               | 18,271                   | 7,105               | 3,736                 | 10,841 | 38.7                                         |
| Arizona .....       | 6,382                | 4,386                    | 2,560               | 740                   | 3,300  | 51.8                                         |
| Arkansas .....      | 31,943               | 23,488                   | 6,681               | 4,212                 | 10,893 | 34.1                                         |
| California .....    | 58,254               | 28,577                   | 34,192              | 10,489                | 44,681 | 76.7                                         |
| Colorado .....      | 11,758               | 6,392                    | 5,217               | 1,835                 | 7,052  | 59.8                                         |
| Connecticut .....   | 16,100               | 12,751                   | 4,047               | 7,993                 | 12,040 | 74.8                                         |
| Delaware .....      | 4,410                | 2,735                    | 936                 | 1,023                 | 1,959  | 44.4                                         |
| Florida .....       | 25,520               | 10,702                   | 12,203              | 4,950                 | 17,162 | 67.2                                         |
| Georgia .....       | 17,130               | 7,939                    | 10,224              | 4,508                 | 14,732 | 86.3                                         |
| Idaho .....         | 7,823                | 2,980                    | 1,946               | 1,787                 | 3,733  | 47.7                                         |
| Illinois .....      | 66,093               | 37,709                   | 11,660 <sup>b</sup> | 17,087                | 28,747 | 43.5                                         |
| Indiana .....       | 48,286               | 26,678                   | 15,610              | 6,253                 | 21,863 | 45.3                                         |
| Iowa .....          | 59,549               | 34,773                   | 9,356               | 11,910                | 21,275 | 35.7                                         |
| Kansas .....        | 34,238               | 14,053                   | 8,171               | 5,697                 | 13,868 | 40.5                                         |
| Kentucky .....      | 21,235               | 15,110                   | 7,743               | 5,381                 | 13,124 | 61.8                                         |
| Louisiana .....     | 25,997               | 16,997                   | 6,979               | 4,524                 | 11,503 | 44.2                                         |
| Maine .....         | 14,781               | 12,041                   | 3,709               | 3,030                 | 6,748  | 45.7                                         |
| Maryland .....      | 15,041               | 10,980                   | 6,297               | 3,295                 | 9,592  | 63.8                                         |
| Massachusetts ..... | 26,581               | 13,846                   | 9,759               | 7,118                 | 16,877 | 63.5                                         |
| Michigan .....      | 75,010               | 34,512                   | 21,309              | 23,212                | 44,521 | 58.6                                         |
|                     |                      |                          |                     |                       |        | 129.0                                        |

|                     |                    |         |                     |         |         |      |       |
|---------------------|--------------------|---------|---------------------|---------|---------|------|-------|
| Minnesota .....     | 43,248             | 19,741  | 8,892               | 10,847  | 19,739  | 45.6 | 100.0 |
| Mississippi .....   | 23,243             | 4,683   | 7,045               | 2,963   | 10,008  | 43.1 | 21.37 |
| Missouri .....      | 41,775             | 27,321  | 7,681               | 9,691   | 17,372  | 41.6 | 63.6  |
| Montana .....       | 9,032              | 4,482   | 2,802               | 1,549   | 4,351   | 48.2 | 97.1  |
| Nebraska .....      | 19,343             | 8,390   | 7,799               | 4,200   | 12,689  | 62.5 | 144.1 |
| Nevada .....        | 3,282              | 2,047   | 952                 | 297     | 949     | 28.9 | 35.9  |
| New Hampshire ..    | 9,755 <sup>c</sup> | 7,621   | 2,267               | 2,248   | 4,515   | 46.3 | 59.2  |
| New Jersey .....    | 52,354             | 32,067  | 9,961               | 14,803  | 24,764  | 47.3 | 75.1  |
| New Mexico .....    | 6,846              | 6,370   | 2,274               | 757     | 3,031   | 44.3 | 47.6  |
| New York .....      | 107,024            | 62,024  | 19,055 <sup>d</sup> | 38,293  | 57,348  | 53.6 | 92.5  |
| North Carolina ..   | 37,541             | 20,682  | 12,006              | 7,045   | 10,051  | 50.7 | 92.1  |
| North Dakota .....  | 9,071              | 4,129   | 1,799               | 1,989   | 3,788   | 41.8 | 91.7  |
| Ohio .....          | 79,586             | 39,281  | 34,082              | 12,860  | 46,942  | 60.5 | 155.0 |
| Oklahoma .....      | 24,516             | 11,766  | 10,842              | 6,964   | 17,806  | 72.6 | 151.3 |
| Oregon .....        | 21,333             | 9,593   | 4,543               | 7,644   | 12,187  | 57.1 | 128.2 |
| Pennsylvania .....  | 96,158             | 51,904  | 35,747              | 20,265  | 65,012  | 67.6 | 125.3 |
| Rhode Island .....  | 5,880              | 4,950   | 1,543               | 2,404   | 3,747   | 67.1 | 79.7  |
| South Carolina ..   | 24,425             | 15,373  | 6,867               | 2,074   | 9,541   | 39.1 | 62.1  |
| South Dakota .....  | 12,903             | 5,060   | 3,546               | 3,151   | 6,097   | 51.9 | 132.4 |
| Tennessee .....     | 38,184             | 27,741  | 9,291               | 4,288   | 13,579  | 35.6 | 48.9  |
| Texas .....         | 56,681             | 33,681  | 22,317              | 20,419  | 47,736  | 75.4 | 120.9 |
| Utah .....          | 5,343              | 4,100   | 1,979               | 838     | 2,817   | 52.7 | 63.6  |
| Vermont .....       | 1,361              | 12,516  | 1,793               | 2,340   | 4,043   | 30.3 | 32.3  |
| Virginia .....      | 22,179             | 13,954  | 9,895               | 6,145   | 16,049  | 72.3 | 114.9 |
| Washington .....    | 21,709             | 12,734  | 5,943               | 7,547   | 13,490  | 62.1 | 105.9 |
| West Virginia ..... | 28,036             | 15,872  | 4,806               | 4,566   | 9,432   | 33.6 | 59.4  |
| Wisconsin .....     | 41,608             | 16,284  | 7,485               | 11,781  | 10,200  | 46.3 | 118.3 |
| Wyoming .....       | 4,170              | 3,107   | 1,296               | 647     | 1,943   | 46.6 | 62.5  |
| Dist. of Columbia.. | ....               | ....    | 1,428               | 666     | 2,094   | .... | ....  |
| United States.....  | 1,444,669          | 799,876 | 431,312             | 347,844 | 779,156 | 53.9 | 97.4  |

a Computed from data reported to the bureau of public roads by state and local officials.

b In effect only for last five months of the year.

c Excludes \$2491,000 for flood relief.

d For last eight months of year.

tion between the wealth or poverty of a state and the proportion of highway moneys derived from special motor taxes.<sup>13</sup>

A second suggestion is that differences in per-capita wealth per mile of rural highway may be a determining factor. It is conceivable that if a state has comparatively little wealth per unit of population in comparison with its needs for highway revenues its general taxable capacity will be limited to the extent that it will resort to unusually high motor-tax rates. A careful check based on the per-capita wealth figures of the 1922 census and the 1929 data for rural highway mileage indicates, however, that there is no relation between per-capita wealth per mile of highway and the ratio of special motor revenues to rural road expenditures.<sup>14</sup>

A third suggestion is that states having a small number of motor vehicles in comparison with mileage of rural roads can derive only a limited percentage of highway money from special automobile taxes. Table IV has been constructed to test the reliability of this hypothesis. It reveals that, while there seems to be some slight relationship between the number of motor vehicles per mile of rural road and the ratio of the motor-tax revenues to total rural highway expenditures,<sup>15</sup> it is practically negligible. For example, Georgia has only 3.5 motor vehicles for each mile of road, but the state nevertheless derives 86.3 per cent of its total highway expenditures from motor vehicle tax revenues. Again, New Jersey can boast 48.4 motor vehicles for each mile of rural highway, but she derives only 47.3 per cent of her total expenditures from special taxation of motor vehicles. Speaking generally, it appears that the relation between rural highway mileage and number of motors is certainly not a determining factor, though it may have some significance. In states which have a relatively small mileage of rural highways in proportion to motor-vehicle registration there is doubtless often a comparatively large mileage of city and village streets, but the statistics are inadequate to justify more than a rough guess.

A fourth suggestion is that the larger the expenditures for rural highways in proportion to the state and local total expenditures (other than city) the larger the proportion of the total the legislature tends to impose on motorists. Though exact data are lacking, it is possible from available statistics<sup>16</sup> to make a rough check on

<sup>13</sup> The data have been tested mathematically, and the coefficient of correlation is found to be practically zero.

<sup>14</sup> The coefficient of correlation is less than .04.

<sup>15</sup> The coefficient of correlation is approximately .29.

<sup>16</sup> National Industrial Conference Board, *Cost of Government in the United States, 1927-1928*, Table 33, column 3, less expenditures by cities shown in Census Bureau, *Financial Statistics of Cities*, Table VIII, column 1, an index of total state and local expenditures (other than municipalities) compared with Table III, *supra*, first column.

TABLE IV

RELATION OF TOTAL HIGHWAY MILEAGE TO MOTOR VEHICLE REGISTRATION  
BY STATES COMPARED WITH RATIO OF MOTOR TAX REVENUES  
TO RURAL ROAD EXPENDITURES, 1929<sup>a</sup>

| <i>State</i>      | <i>Highway<br/>Mileage</i> | <i>Number<br/>of<br/>Vehicles</i> | <i>Number of<br/>Vehicles<br/>a Mile of<br/>Highway</i> | <i>Ratio of Total<br/>Motor Tax<br/>Revenues to<br/>Rural Highway<br/>Expenditures</i> |
|-------------------|----------------------------|-----------------------------------|---------------------------------------------------------|----------------------------------------------------------------------------------------|
| Alabama .....     | 67,943                     | 285,533                           | 4.2                                                     | 38.7                                                                                   |
| Arizona .....     | 22,284                     | 109,013                           | 4.9                                                     | 51.8                                                                                   |
| Arkansas .....    | 68,506                     | 233,128                           | 3.4                                                     | 34.1                                                                                   |
| California .....  | 76,964                     | 1,974,341                         | 25.7                                                    | 76.7                                                                                   |
| Colorado .....    | 98,974                     | 303,489                           | 4.4                                                     | 59.8                                                                                   |
| Connecticut ..... | 14,145                     | 328,903                           | 23.2                                                    | 74.8                                                                                   |
| Delaware .....    | 3,777                      | 54,960                            | 14.6                                                    | 44.4                                                                                   |
| Florida .....     | 39,183                     | 345,977                           | 11.5                                                    | 67.2                                                                                   |
| Georgia .....     | 101,422                    | 358,905                           | 3.5                                                     | 86.3                                                                                   |
| Idaho .....       | 39,137                     | 118,074                           | 3.0                                                     | 47.7                                                                                   |
| Illinois .....    | 97,287                     | 1,015,088                         | 16.6                                                    | 43.5                                                                                   |
| Indiana .....     | 73,961                     | 866,715                           | 11.8                                                    | 45.3                                                                                   |
| Iowa .....        | 103,328                    | 784,450                           | 7.6                                                     | 35.7                                                                                   |
| Kansas .....      | 132,244                    | 581,223                           | 4.4                                                     | 40.5                                                                                   |
| Kentucky .....    | 61,261                     | 332,848                           | 5.4                                                     | 61.8                                                                                   |
| Louisiana .....   | 35,553                     | 280,868                           | 7.9                                                     | 44.2                                                                                   |
| Maine .....       | 21,002                     | 184,506                           | 8.8                                                     | 45.7                                                                                   |
| Maryland .....    | 14,733                     | 319,873                           | 21.7                                                    | 63.8                                                                                   |
| Massachusetts ... | 18,762                     | 817,704                           | 43.6                                                    | 63.5                                                                                   |
| Michigan .....    | 81,015                     | 1,395,102                         | 17.2                                                    | 58.6                                                                                   |
| Minnesota .....   | 110,553                    | 730,399                           | 6.6                                                     | 45.6                                                                                   |
| Mississippi ..... | 61,957                     | 250,011                           | 4.0                                                     | 43.1                                                                                   |
| Missouri .....    | 105,592                    | 756,680                           | 7.2                                                     | 41.6                                                                                   |
| Montana .....     | 67,072                     | 140,387                           | 2.1                                                     | 48.2                                                                                   |
| Nebraska .....    | 93,911                     | 418,226                           | 4.5                                                     | 62.5                                                                                   |
| Nevada ...        | 23,540                     | 31,915                            | 1.4                                                     | 28.9                                                                                   |
| New Hampshire...  | 12,035                     | 108,880                           | 9.0                                                     | 46.3                                                                                   |
| New Jersey .....  | 17,207                     | 832,332                           | 48.4                                                    | 47.3                                                                                   |
| New Mexico ....   | 47,785                     | 78,374                            | 1.6                                                     | 44.3                                                                                   |
| New York .....    | 80,133                     | 2,263,259                         | 28.2                                                    | 53.6                                                                                   |
| North Carolina .. | 71,529                     | 483,602                           | 6.8                                                     | 50.7                                                                                   |
| North Dakota ...  | 106,850                    | 188,046                           | 1.8                                                     | 41.8                                                                                   |
| Ohio .....        | 84,553                     | 1,766,614                         | 20.9                                                    | 66.5                                                                                   |
| Oklahoma .....    | 120,760                    | 570,791                           | 4.7                                                     | 72.6                                                                                   |
| Oregon .....      | 51,646                     | 260,007                           | 5.2                                                     | 57.1                                                                                   |

<sup>a</sup> Computed from data reported by state and local officials to the bureau of public roads. The last column is taken from Table III.

|                      |           |            |      |      |
|----------------------|-----------|------------|------|------|
| Pennsylvania . . . . | 90,676    | 1,733,283  | 19.1 | 67.6 |
| Rhode Island . . .   | 2,682     | 1,348,000  | 50.0 | 97.1 |
| South Carolina . .   | 57,678    | 231,274    | 4.0  | 39.1 |
| South Dakota . . .   | 120,275   | 204,199    | 1.7  | 51.9 |
| Tennessee . . . . .  | 67,035    | 362,431    | 5.4  | 35.6 |
| Texas . . . . .      | 187,870   | 1,348,107  | 7.2  | 75.4 |
| Utah . . . . .       | 23,424    | 112,661    | 4.8  | 52.7 |
| Vermont . . . . .    | 15,042    | 93,030     | 6.2  | 30.3 |
| Virginia . . . . .   | 59,698    | 387,205    | 6.5  | 72.3 |
| Washington . . . .   | 43,022    | 442,341    | 10.1 | 62.1 |
| West Virginia . . .  | 34,799    | 268,888    | 7.7  | 33.6 |
| Wisconsin . . . . .  | 81,415    | 793,502    | 9.7  | 46.3 |
| Wyoming . . . . .    | 41,158    | 60,680     | 1.5  | 40.0 |
| United States . . .  | 3,024,233 | 26,501,443 | 8.8  | 53.9 |

this hypothesis. It seems apparent that this is the case, though the evidence is not conclusive when states in all sections are compared. It is probable that the tendency to impose a large share of the total on motorists where the highway program is comparatively extensive results from efforts of real-estate owners to keep down ever-increasing tax burdens to which they are subjected.

A fifth suggestion is that the percentage of the highway expenditures paid by the motorist tends to be relatively small in states where the rates of the gasoline tax and motor-vehicles tax are both relatively low. This seems to be generally true though the correlation is by no means perfect.

A sixth suggestion is that the percentage of the expenditures for rural highways which the legislature collects from motorists is less where motor vehicles are exempted from property taxation. In several states the registration tax is imposed in lieu of the property tax levied on other forms of tangible personalty as well as for the purpose of raising *special highway revenue*. These states' income from the motor registration taxes, therefore, logically contains two elements: (a) revenue for general purposes in lieu of that which the property tax would yield if imposed, and (b) the remainder which is justified by the fact that the state provides the highway and is entitled to special revenues from those who use it. The former, which may be designated the "general tax element" in the registration tax and which represents simply a special method of collecting the property tax, may or may not be appropriated for highways; the latter is essentially "special highway revenue."

Statistical analysis reveals<sup>17</sup> that, if the "general tax element" be subtracted from the revenues collected by the states exempting motor vehicles from taxation, the "special highway revenue" is reduced to an amount materially below the general average for the other states. Indeed in several of the dozen states which follow

<sup>17</sup> Unpublished study by the chairman of the committee based on statistics for 1927.

this practice the special highway tax is almost eliminated. Generalizing, it may be said that if the registration license is in lieu of the property tax imposed on other tangibles, the special highway tax is ordinarily materially reduced, even though in form the license is as high or higher than in other states.

The most important factor in determining whether or not the legislature of a given state will impose high gasoline and motor-vehicle registration taxes is the attitude and political strength of various groups. For example, how do the automobile clubs react to such taxes and how much influence do they have with the legislature? How strong are the farm interest and the real estate boards? What is the attitude of the merchants and manufacturers? assuming a certain amount of money necessary to provide for the highways, the more the motorists are called upon to pay, the less will it be necessary that other groups pay and *vice versa*. In the last analysis, motor-tax laws are frequently, if not generally, passed not according to their merits but according to the relative political strength of conflicting interests.

### c. *Special benefit revenues in cities*

It is impossible from statistics available to determine the percentage of municipal highway expenditures that is raised by means of

TABLE V  
REVENUES DERIVED BY CITIES OF 30,000 POPULATION AND OVER FROM  
SPECIAL ASSESSMENTS AND RECEIPTS FROM HIGHWAY PRIVILEGES  
COMPARED WITH CITY HIGHWAY EXPENDITURES <sup>a</sup>

(In thousands of dollars)

| Year      | Revenues<br>from<br>Special<br>Assessments | Revenues<br>from<br>Highway<br>Privileges | Total   | City<br>Highway<br>Expenditures | Ratio of<br>Special Benefit<br>Revenues to<br>Highway<br>Expenditures |
|-----------|--------------------------------------------|-------------------------------------------|---------|---------------------------------|-----------------------------------------------------------------------|
| 1917..... | 83,196                                     | 14,038                                    | 97,234  | 174,887                         | 55.6%                                                                 |
| 1922..... | 103,135                                    | 18,250                                    | 121,385 | 299,048                         | 40.6                                                                  |
| 1923..... | 122,273                                    | 20,700                                    | 148,973 | 323,606                         | 46.0                                                                  |
| 1924..... | 147,780                                    | 22,458                                    | 170,238 | 374,442                         | 45.5                                                                  |
| 1925..... | 184,347                                    | 23,423                                    | 207,770 | 450,712                         | 46.1                                                                  |
| 1926..... | 204,902                                    | 24,047                                    | 228,949 | 483,947                         | 47.3                                                                  |
| 1927..... | 227,513                                    | 25,792                                    | 253,305 | 552,161                         | 45.9                                                                  |

<sup>a</sup> Based on the Census Bureau's annual *Financial Statistics of Cities*. Only the two classes of special highway revenues shown by the Census Bureau (in recent years in Tables 7 and 9) are presented here, and only the general expenditures for highways added to the amount expended in outlays (shown recently in Tables 12 and 17) are included. The most important item not included is the amount paid out for interest on loans for streets.

TABLE VI  
COMPARISON OF CITY HIGHWAY EXPENDITURES WITH INCREASE IN REVENUES FROM  
URBAN REGISTRATION TAXES, 1922-1927<sup>a</sup>

|                                                                                                                      | 1922        | 1923        | 1924        | 1925        | 1926        | 1927        | 1928        |
|----------------------------------------------------------------------------------------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Revenue produced in 23 cities.....                                                                                   | \$2,016,452 | \$3,500,347 | \$4,238,180 | \$4,023,181 | \$5,003,300 | \$5,210,571 | \$5,505,200 |
| Index number of revenue produced<br>in 23 cities .....                                                               | 100.0       | 120.5       | 145.5       | 158.5       | 174.0       | 179.0       | 188.8       |
| Index number of total city street ex-<br>penditures in all cities of the U. S.<br>with 30,000 or greater population. | 100.0       | 108.2       | 128.2       | 153.1       | 161.8       | 184.0       |             |

<sup>a</sup> Computed from Table V and an unpublished study by the chairman of the Committee, based on official reports from thirteen cities in Illinois, three in Kentucky, Missouri, and Virginia each, and one in North Carolina.



special taxes, or other charges levied against street users. However, Table V shows the revenues derived from two of the most important of these sources for a number of years. Total revenues from special assessments include an uncertain amount derived on account of improvements other than streets, but the bulk is from highway assessments. Statistics of revenues from special taxation of motor vehicles are omitted for lack of data.<sup>18</sup> It is clear from Table VI, however, that the recent trend of the ratio of municipal special-benefit revenue to city street expenditures, as shown in Table V, would probably have been little altered had it been possible to include statistics of local motor-tax revenues, since the increase in municipal motor-tax receipts appears to have been at approximately the same rate as growth in city street expenditures. Generally, therefore, it is obvious that the percentage of urban highway expenditures derived from special benefit revenues has not varied widely over the six-year period 1922-1927.<sup>19</sup>

#### d. *Recommendations*

Your committee approves the tendency to increase the proportion of revenue from special motor taxes to meet the highway expenditures of the country and suggests that the growth in such revenues should continue until all the burden of highway financing which would not have been incurred in the absence of the motor vehicle and which is not more equitably and conveniently<sup>20</sup> imposed on other beneficiaries is borne by motor vehicle owners. It believes that beyond this it is unwise to impose special taxes on motorists.

This general recommendation requires some explanation. In the first place, other highway users from whom special benefit revenues may be collected include numerous sorts of public utilities, such as street railway, water, telephone, telegraph, heat, and refrigerator companies, which contribute revenue to cities through special payments for the privilege of using the streets for pipes, wires, etc. As indicated by Table V, the total revenue derived from this source

<sup>18</sup> See p. 147, *supra*.

<sup>19</sup> It must be emphasized that Table V is of considerable significance only to the extent that it indicates changes over a period of years. The ratios shown are probably higher than they would be if complete data were included, since interest on highway debt, which is omitted, is a large item.

<sup>20</sup> The measure of "equitable and convenient" may require explanation. Payments by utilities using streets for tracks, wires, pipes, etc., are in the nature of a price for a particular service and should be sharply distinguished from general business taxes imposed on bus, truck and street-railway companies. It is conceived that, in view of the motor-tax burden which vehicle operators bear, special assessments are more "equitable and convenient" to the extent that they can be imposed to meet the expense of highway construction or reconstruction without serious danger of impairing land values, and without undue administrative cost.

throughout the country is little in excess of twenty-five million dollars, but it shows some tendency to increase from year to year.<sup>21</sup>

In the second place, something should be said concerning the collection of revenues from those who enjoy indirect benefits from highway construction. It is obvious that the direct beneficiary of the road or street is the user, whether motorist or pedestrian; but experience teaches that highway improvement nearly may enhance the value of real property by increasing its *accessibility to direct beneficiaries*. This fact gives rise to special assessments<sup>22</sup> for highway construction or improvement. In and near cities it is often possible to assess all the cost of a construction project against abutting or other neighboring real property without impairing land values. Sometimes only a part of the cost can be thus recouped. In purely rural communities, according to surveys made by the bureau of public roads, it is ordinarily not a very commendable method of financing motor highways for three reasons: (a) The enhancement of values is so diffused that it is difficult to assess; (b) the construction of an expensive primary road ordinarily increases the value of nearby property no more than the construction of a cheaper farm-to-market highway; and (c) in many instances building a main highway through a rural section has the effect of actually injuring contiguous farm property on account of the traffic danger to livestock, the petty thievery engendered, the dust nuisance, and the crowding of wagons from the roads by the motor cars.<sup>23</sup> Thus, it may be said that in rural sections special assessments may rarely be wisely used in financing motor highways, but in urban and suburban communities it is a method of financing which, when carefully applied, is often more equitable and convenient—and generally more usual—than taxation of the direct beneficiaries, especially motorist. Moreover, special assessments may often properly be used for financing those parts of the highway such as sidewalks and curbs, which do not result primarily from requirements of the motorist.

This suggestion obviously involves classifying highways as local roads, rural motor highways, and urban and suburban streets.<sup>24</sup>

<sup>21</sup> See *Financial Statistics of Cities*, 1927, p. 49.

<sup>22</sup> Also variously called *betterment taxes*, *special benefit taxes*, etc.

<sup>23</sup> The investigations of the bureau of public roads in Iowa and Wisconsin, though incomplete, tend to confirm these arguments. Cf. House of Representatives, Seventieth Congress, First Session, *Evidence before Committee on Roads on General Authorization Bills and Proposed Amendments to Federal Highway Act*, 1928, Part I. In Arkansas, Kansas and Ohio the former practice of assessments against abutting property has been abandoned or curtailed.

<sup>24</sup> "Problems of Highway Finance," *op. cit.*, p. 421; *Report of the Tax Commission of North Carolina*, 1928, pp. 12, 13; "Report of the Committee on Finance," County Officials Division, American Road Builders' Association, *Constitution Proceedings*, 1930, pp. 556-560.

At the present time, however, statistics of rural highway expenditures are reported on the basis of whether or not supervised by the state road department and so have little significance for our purpose. So far as such classification does have any meaning, Table III indicates that on the average special taxation of motorists does not produce sufficient revenue to pay the annual expenditures for state highways and that nothing is provided toward the city street budget except in so far as municipal income is derived from local registration and gasoline taxes. However, some states like California, Florida, Georgia, Nebraska and Ohio are collecting by means of special motor taxes decidedly more than the amount spent on state highways. In some states this results no doubt from the fact that the *state* road program as compared with the local is less extensive than the suggested classification principle would require; but other states are actually taxing motorists at rates sufficient to pay the costs of primary roads and part of the expense incurred in connection with city streets.<sup>25</sup>

One qualification in this general statement is necessary. The term *annual cost of highways* is not synonymous with annual expenditure for highways. Annual cost of highways is the sum of the maintenance expense, interest on the investment, and depreciation and obsolescence, including in each case a proper assignment for overhead. If, for example, a state has an investment on motor highways of \$50,000,000, depreciating (including obsolescence) at \$10,000,000 a year when the interest rate is 4 per cent, the total annual cost of such roads and streets is \$10,000,000 (depreciation) plus \$2,000,000 (interest) plus maintenance of, say, \$8,000,000. The total is \$20,000,000, though, owing to the fact that new construction is being prosecuted with extraordinary rapidity, the amount spent on these highways during the year totals \$25,000,000. Thus the cost may be less than the annual expenditures; in much of the country, due to the heavy outlay for new construction, there is reason to believe that it is less for the time being, so far at least as state and city highways are concerned. Consequently, if proper adjustments were made on account of this discrepancy, it might be shown that the motor users are already paying an amount equal to the annual cost of rural motor highways and a certain part of the expense for streets.

The committee's recommendation does not contemplate any radical revision of the motor registration and gasoline tax rates now

<sup>25</sup> It is to be emphasized that the committee is thinking in terms of amounts, not in terms of specific assignment of revenues. It adheres to the opinion of the 1924 committee ("Problems of Highway Finance," *op. cit.*, pp. 430, 431) that rigid fund segregation for highway purposes is not necessarily desirable, provided budgetary provision for highways is proportionate to special highway-tax revenues collected.

TABLE VII

REVENUES PER MOTOR DERIVED FROM SPECIAL TAXES, 1929 <sup>a</sup>

|                             | Gas Tax<br>Rate at<br>End of Year | Gasoline<br>Tax per<br>Motor Vehicle | Registration<br>Tax per<br>Motor Vehicle | Total Special<br>Tax per<br>Motor Vehicle |
|-----------------------------|-----------------------------------|--------------------------------------|------------------------------------------|-------------------------------------------|
| Alabama . . . . .           | 4                                 | \$24.84                              | \$13.07                                  | \$37.91                                   |
| Arizona . . . . .           | 4                                 | 23.49                                | 9.87                                     | 33.36                                     |
| Arkansas . . . . .          | 5                                 | 28.97                                | 18.08                                    | 46.75                                     |
| California . . . . .        | 3                                 | 17.32                                | 5.30                                     | 22.68                                     |
| Colorado . . . . .          | 4                                 | 17.22                                | 9.96                                     | 23.28                                     |
| Connecticut . . . . .       | 2                                 | 12.34                                | 24.37                                    | 36.71                                     |
| Delaware . . . . .          | 3                                 | 17.02                                | 20.42                                    | 37.44                                     |
| Dist. of Columbia . . . . . | 2                                 | 9.52                                 | 4.41                                     | 13.94                                     |
| Florida . . . . .           | 9                                 | 35.27                                | 17.51                                    | 52.78                                     |
| Georgia . . . . .           | 6                                 | 28.48                                | 12.72                                    | 41.20                                     |
| Idaho . . . . .             | 4                                 | 19.49                                | 15.14                                    | 34.63                                     |
| Illinois . . . . .          | 3                                 | 7.22                                 | 10.58                                    | 17.80                                     |
| Indiana . . . . .           | 4                                 | 18.99                                | 7.21                                     | 25.21                                     |
| Iowa . . . . .              | 3                                 | 11.93                                | 19.01                                    | 28.53                                     |
| Kansas . . . . .            | 3                                 | 14.00                                | 9.81                                     | 23.87                                     |
| Kentucky . . . . .          | 5                                 | 23.25                                | 16.16                                    | 39.41                                     |
| Louisiana . . . . .         | 4                                 | 24.84                                | 16.10                                    | 40.94                                     |
| Maine . . . . .             | 4                                 | 20.95                                | 16.38                                    | 36.43                                     |
| Maryland . . . . .          | 4                                 | 19.68                                | 10.30                                    | 29.98                                     |
| Massachusetts . . . . .     | 2                                 | 11.93                                | 8.70                                     | 20.63                                     |
| Michigan . . . . .          | 3                                 | 15.28                                | 16.64                                    | 31.92                                     |
| Minnesota . . . . .         | 3                                 | 12.18                                | 14.86                                    | 26.96                                     |
| Mississippi . . . . .       | 5                                 | 28.18                                | 11.85                                    | 40.03                                     |
| Missouri . . . . .          | 2                                 | 10.15                                | 12.82                                    | 22.97                                     |
| Montana . . . . .           | 5                                 | 26.91                                | 11.06                                    | 37.97                                     |
| Nebraska . . . . .          | 4                                 | 18.66                                | 12.68                                    | 31.34                                     |
| Nevada . . . . .            | 4                                 | 22.28                                | 9.28                                     | 31.56                                     |
| New Hampshire . . . . .     | 4                                 | 21.40                                | 20.62                                    | 42.02                                     |
| New Jersey . . . . .        | 2                                 | 11.97                                | 17.91                                    | 29.88                                     |
| New Mexico . . . . .        | 5                                 | 29.13                                | 9.71                                     | 38.86                                     |
| New York . . . . .          | 2                                 | 8.62                                 | 16.93                                    | 25.55                                     |
| North Carolina . . . . .    | 5                                 | 25.86                                | 14.56                                    | 40.42                                     |
| North Dakota . . . . .      | 3                                 | 15.85                                | 10.58                                    | 26.43                                     |
| Ohio . . . . .              | 4                                 | 25.94                                | 7.28                                     | 33.22                                     |
| Oklahoma . . . . .          | 4                                 | 29.79                                | 12.20                                    | 41.99                                     |
| Oregon . . . . .            | 3                                 | 22.26                                | 28.42                                    | 50.68                                     |
| Pennsylvania . . . . .      | 4                                 | 20.71                                | 16.88                                    | 37.59                                     |
| Rhode Island . . . . .      | 2                                 | 11.62                                | 17.94                                    | 29.56                                     |
| South Carolina . . . . .    | 6                                 | 26.85                                | 12.01                                    | 41.86                                     |
| South Dakota . . . . .      | 4                                 | 22.94                                | 15.45                                    | 38.39                                     |
| Tennessee . . . . .         | 5                                 | 25.67                                | 14.85                                    | 37.52                                     |
| Texas . . . . .             | 4                                 | 17.21                                | 15.15                                    | 32.36                                     |
| Utah . . . . .              | 3½                                | 17.51                                | 7.42                                     | 24.93                                     |
| Vermont . . . . .           | 1                                 | 18.32                                | 25.19                                    | 43.48                                     |
| Virginia . . . . .          | 5                                 | 27.21                                | 15.88                                    | 43.09                                     |
| Washington . . . . .        | 3                                 | 14.62                                | 17.07                                    | 31.69                                     |
| West Virginia . . . . .     | 4                                 | 18.86                                | 16.97                                    | 35.83                                     |
| Wisconsin . . . . .         | 2                                 | 9.99                                 | 14.84                                    | 24.83                                     |
| Wyoming . . . . .           | 4                                 | 21.25                                | 10.61                                    | 31.86                                     |
| United States . . . . .     |                                   | 16.28                                | 13.13                                    | 29.41                                     |

<sup>a</sup> Computed from data reported to the bureau of public roads by state officials. *Public Roads*, April 1930, pp. 36-39.

levied, and it certainly is not to be interpreted as proposing increases in rates levied in those states already imposing severe burdens. As indicated in Table VII, a number of states impose rates materially below the general level for the country. An upward revision of these could be made on a moderate scale without hardship.<sup>26</sup> Such a change would effect the national total more than would a downward revision in those states which now have heavy rates, since the states imposing high rates generally have comparatively few vehicles. Doubtless, there should ultimately be downward revision in a few states, but the committee is of the opinion that the most extreme rates now levied may be preferable to any available alternative method of meeting the problem in certain states.

The recommendation that all highway costs be met by special taxes on motor transportation, in so far as they are in excess of those which would have been incurred in the absence of the motor vehicle and are not more equitably and conveniently derived from special assessments against property owners who are indirect beneficiaries, can be adopted by many states at the present time; but there are doubtless some in the south and west which will have to approach the ideal gradually. To attempt to raise motor-vehicle tax revenue sufficient to meet such highway cost at the present time might impose an excessive burden on motor transportation in these instances. The poorer states in which the road program is retarded may occasionally avoid this difficulty by a credit policy that will enable them to spread the costs over a period of years.<sup>27</sup>

Finally, if the level of special motor-tax rates suggested be made effective, the problem of competition with other types of transportation agencies will not arise so far as special highway taxation is concerned, since in each case the different means of transport will provide their own facilities.

## 2. FORM OF SPECIAL TAXATION: GASOLINE TAX <sup>28</sup>

Adoption of the plan discussed above would imply acceptance of the theory that special taxation constitutes a sort of rental for the

<sup>26</sup> Cf., for example, the *Final Report of the California Tax Commission*, p. 103. Readjustment to secure adequate graduation, as suggested below, could be made to yield increased revenue without higher rates on any but vehicles of large size or with solid tire equipment.

<sup>27</sup> The conditions under which a bonding program is advisable have been carefully and wisely analyzed by an earlier committee. See "Problems of Highway Finance," *op. cit.*, pp. 418, 419. Generally, for reasons set forth by the 1924 committee and because of the danger of uneconomical spending engendered by the ease with which funds can be initially raised by a credit policy, the committee is of the opinion that the presumption is against borrowing.

<sup>28</sup> The committee has not attempted to deal with certain specific motor

highways. It is as though the state owned a railroad right-of-way and road-bed and leased this property to privately-owned operating companies, apportioning the rental on the basis of use of the facilities, potential use, or both actual and potential use. Thus it is important to impose taxes so as to distribute the rental fairly between the twenty million or so individual users of motor vehicles—and hence of highways.

Generally speaking, the particular taxes used for this purpose in the United States are two: (a) the motor vehicle registration tax, which has been developed over a period of nearly thirty years, and (b) the motor fuels tax, which has been employed in this country for slightly more than ten years. The former is designed to take particular account of potential road use, as well as to supplement the motor-fuel tax in measuring wear and tear on the road used by the vehicle.<sup>29</sup> It is based on the theory that the motor operator should pay for the road on the basis of the destructiveness to the highway which his vehicle will probably occasion or which it is capable of causing. It is a payment to the state for the availability of the highway. Particularly in recent years, it has come to have some importance because it imposes a charge against the vehicle operator who uses his car only occasionally but at a time when numerous others are doing so—and when road space is consequently at a premium. Charge for road service at such times would be inadequate if imposed solely in proportion to actual use, since road service is more expensive at "peak-load" periods than at other times.<sup>30</sup>

The gasoline tax, on the other hand, is designed to apportion the tax burden more particularly on the basis of the amount a vehicle is driven. If one car is driven five thousand miles a year and another of the same size and type ten thousand miles, the latter

transportation revenues, such as driver's licenses, municipal special taxation, and receipts from the operation of toll bridges; nor has it attacked the question of how to distribute motor-tax revenues. The first subject ought to have little fiscal significance, since it is specifically a policing measure; the second and third are rather highly specialized; and the last is not a revenue problem, and so is without the scope of the committee's assignment. Though doubtless within the scope of the committee's purview, the question of special motor taxes by the federal government to meet the expense of federal aid to highways has not been attacked. It might be said, however, as a supplement to discussion by the 1924 committee, that other countries have successfully met the situation by means of a tax on the importation or sale of tires. Such imposts in the United States could be made to produce sufficient revenue to meet the requirements of the present federal-aid program. Likewise it might be suggested that the interstate question is met in part by the gasoline tax which, of course, is paid by those from without a given state as well as by residents.

<sup>29</sup> See p. 157 ff.

<sup>30</sup> This point has been noted by an earlier committee ("Problems of Highway Finance," *op. cit.*, p. 429).

consumes approximately twice as much fuel as the former and consequently involves payment of a correspondingly greater amount of tax.

The gasoline tax has proved to be one of the most popular, important revenue measures used in the country. As suggested by Table II, it has yielded increasing revenues since its initiation in 1919 until in 1930 it will produce in the neighborhood of half a billion dollars. In 1919 four states passed fuels-tax laws for the first time; by 1930 every state had adopted them. At the beginning of 1925 fewer states levied rates as high as four cents a gallon than now levy six cents. The one-cent rate, typical of the early days of gasoline taxation, has completely disappeared, and the two-cent rate is becoming scarce. On the whole, however, the rates imposed in the United States are lower than in many foreign countries which collect fuels taxes.

Some explanation of the popularity of this revenue measure is desirable. In the first place, the collection of the gasoline tax is comparatively simple and inexpensive.<sup>31</sup> Generally speaking, the costs are well below 1.0 per cent of the revenues. While the increase in the tax rate results in a decrease in the percentage cost of collection, some states find that the difficulties of administration are increased as a result of higher rates.<sup>32</sup> Generally, there is no relation between the rate and the cost of collecting the tax.

In the second place, the tax is paid in a manner that is unobtrusive and convenient. This is peculiarly noticeable in comparison with the motor-registration tax, which is characteristically paid in one large sum rather than through the year as the vehicle is driven. This advantage has been all the more prominent because, on the whole in the past ten years, fuel prices were declining, so that the gasoline tax has been added without apparent increase in the cost of fuel.

Thirdly, as the revenues derived from fuels taxes have typically been used on motor highways, the service purchased by the motorist has accrued to him in a more obvious manner than is usually the result of payment of a tax. This combined with the second consideration has practically eliminated opposition from those who pay the tax.

In the fourth place, no special interests have opposed the imposi-

<sup>31</sup> The following studies have made the point clear: Martin, "The Administration of Gasoline Taxes in the United States," *National Municipal Review* (Supplement), October, 1924, pp. 587-600; Special Joint Committee on Taxation and Retrenchment, *The Gasoline Tax*, New York Legislative Document (1926), No. 69; F. G. Crawford, "The Administration of the Gasoline Tax in the United States," *Municipal Administrative Service Publication*, No. 7.

<sup>32</sup> Correspondence with officials in charge of administration.

tion of fuels taxes. The motor industry has favored moderate taxation of gasoline because the revenues were generally used for highways and thus resulted in getting roadways constructed earlier than would otherwise have been the case. The petroleum industry has been divided in sentiment concerning the theory of incidence of the tax, and consequently has not offered any vigorous opposition. Indeed, even those who believed that the tax placed a burden on the industry have not objected to a moderate rate of taxation. Some have urged that imposition of gasoline taxes, so far as it resulted in more highway building, was helpful to the petroleum industry.

Finally, the essential merits of the tax, pointed out by earlier committees of the National Tax Association and by numerous other writers, have been of significance. Gasoline consumption, the measure of the amount of tax, bears some relation to all the most important criteria of road destructiveness: (a) amount the vehicle is driven, (b) speed at which the car is operated, (c) weight of the automobile, and (d) character of the tire equipment; and it takes almost perfect account of the first of these.

Although the merits of the gasoline tax have often been overstated by enthusiastic supporters, the committee has no hesitancy in commending it as the best single means of metering highway service to road-users. Its merits depend primarily on the fact that it is a good measure of the amount of road use, and no other American method of taxation is. It is inadequate as a sole measure of speed, weight or tire factors.

### 3. FORM OF SPECIAL TAXATION: MOTOR REGISTRATION TAX

For reasons explained by the 1924 committee<sup>33</sup> and again emphasized by speakers at the 1929 National Tax Conference,<sup>34</sup> the committee is of the opinion that each state ought to impose a motor-registration tax on all motor vehicles both for police regulation and for revenue purposes. Concerning the former objective, there seems to be no difference of opinion; respecting the latter, comparatively few students have suggested abandonment of the license. The committee believes that there are two outstanding reasons for retaining the registration tax for revenue purposes: (a) The total special tax burden can be more fairly distributed by means of the registration and gasoline tax combined than by the fuels tax alone, and (b) the revenue derived from the registration tax in some commonwealths is essential in meeting the fiscal needs of the state if an unduly high gasoline tax rate is to be avoided.<sup>35</sup> The former

<sup>33</sup> "Problems of Highway Finance," *op. cit.*, pp. 429, 439.

<sup>34</sup> *Proceedings*, pp. 485-488.

<sup>35</sup> Good reason has recently been found for believing that high gasoline



TABLE VIII

DEVELOPMENT OF MOTOR REGISTRATION LICENSE AS COMPARED WITH  
GASOLINE TAX REVENUES IN THE UNITED STATES <sup>a</sup>

| Year         | Motor Registration Tax Revenues            |                               | Gasoline Tax Per<br>Average Vehicle |
|--------------|--------------------------------------------|-------------------------------|-------------------------------------|
|              | Gross Amount in<br>Thousands of<br>Dollars | Amount per<br>Average Vehicle |                                     |
| 1913 . . .   | 8,192                                      | \$6.51                        | None                                |
| 1918 . . .   | 51,477                                     | 8.37                          | None                                |
| 1919 . . .   | 64,607                                     | 8.54                          | \$0.14                              |
| 1920 . . .   | 102,546                                    | 11.11                         | 0.15                                |
| 1921 . . . . | 122,479                                    | 11.71                         | 0.51                                |
| 1922 . . .   | 152,048                                    | 12.42                         | 1.04                                |
| 1923 . . .   | 188,971                                    | 12.52                         | 2.97                                |
| 1924 . . .   | 225,492                                    | 12.82                         | 4.57                                |
| 1925 . . . . | 260,620                                    | 13.07                         | 7.44                                |
| 1926 . . . . | 288,222                                    | 12.83                         | 8.52                                |
| 1927 . . . . | 301,061                                    | 13.01                         | 11.19                               |
| 1928 . . . . | 322,630                                    | 13.17                         | 12.45                               |
| 1929 . . .   | 347,844                                    | 13.13                         | 16.28                               |

<sup>a</sup> Computed from reports of state officials to the bureau of public roads.

reason will be discussed in the next section. The latter is shown clearly in Table VIII, which indicates that the registration license has for many years yielded substantial revenue, and that over a long period of years it has consistently though gradually increased in effectiveness as a producer of income to the state. Moreover, as a number of agencies have stressed,<sup>36</sup> the states which do not impose a substantial registration tax interfere with the success of those which do. The committee does not believe, however, that states should be expected to impose uniform registration taxes, since their needs for revenue vary widely.

In form, the registration tax should be based on the gross weight of the vehicle and its capacity load. The greater the gross weight

taxes result in lowered fuel consumption. [See Martin and Harris, "Effect of Gasoline Tax on the Consumption of Fuel," *National Petroleum News* (forthcoming).] Thus there is probably a problem of equalizing the incidental burden of the tax on the motor and petroleum industries. Cf. F. P. Ramsay, "A Contribution to the Theory of Taxation," *Economic Journal*, March 1927, pp. 47-61.

<sup>36</sup> Cf., for example, *Final Report of the California Tax Commission*, p. 103.

the higher the rate of tax should be.<sup>37</sup> A heavier tax should be imposed on vehicles fitted with solid rubber or metal tires than on those equipped with pneumatic tires.<sup>38</sup> In states which have well-developed administrative organizations, and especially those which have effective traffic patrol systems, the cushion-tired vehicles should be subjected to separate classification and taxed at a rate higher than that imposed on pneumatic-tired vehicles but lower than that levied against those with solid rubber tires. Finally, the heavy vehicle fitted with six wheels on three axles should be taxed at a lower rate than one of the same weight provided with only four wheels on two axles.<sup>39</sup>

A study of legislation during the past several years indicates that there is a tendency toward the general plan recommended.<sup>40</sup> Even the lower rate for the six-wheel vehicle is provided in Texas and Maryland. Perhaps the general tendency is as well illustrated in New Hampshire as anywhere. In that state, the uniform basis for all vehicles is gross weight, and there is both discrimination in behalf of the vehicle fitted with pneumatic tires (though it is inadequate) and graduation. It should be noted too that the discrimination between metal and solid rubber tires of \$0.20 a hundred pounds is altogether too little. The general scheme of graduation in Texas is more adequate as concerns commercial vehicles, but the system is complicated by the utilization of an entirely different basis for private passenger cars. Michigan provides steep graduation (though on the basis of net rather than gross weight), but makes the rate flat above 6,000 pounds net weight, the place where graduation is most needed.

<sup>37</sup> The argument has been presented, by the 1924 committee, but it will be elaborated in the following section.

<sup>38</sup> It has been shown (Martin, "Motor Registration License," *op. cit.*, pp. 202-204) that the tax on vehicles with solid should be about five times that on those with pneumatic tires. If the vehicles with solid tires are three times as destructive as those with pneumatic and the gas tax very slightly heavier on the former, only by making the license five or six times as high on those with solid as on those with pneumatic tires can the total tax be made properly discriminatory. The fee for the vehicle with metal tires ought to be about twice as much as for one with solid rubber. (Cf. J. A. Buchanan and E. B. Smith, "Report on Motor Truck Impost Studies," *Proceedings of the Seventh Annual Meeting*, Highway Research Board, National Research Council, pp. 91-97, and studies cited.)

<sup>39</sup> It is probable that allowance should also be made in the case of a heavy vehicle fitted with six tires even though on only two axles, but adequate information on that score is not available. The discount on account of six wheels on three axles should approximate 40 per cent in the case of trucks. Information respecting busses and trucks with six tires on two axles should soon be available as a result of experiments now in progress under direction of the bureau of public roads and other cooperating institutions.

<sup>40</sup> Martin, *op. cit.*, p. 100.

For reasons which have been explained elsewhere, the committee is of the opinion that horsepower, net weight, carrying capacity, value or any index thereof, cubic inches of piston displacement, and chassis weight are each (or in combination) distinctly inferior to gross weight as a measure of highway use.<sup>41</sup> Consequently, the committee has no hesitancy in urging that states should adopt gross weight as the basis for registration taxes on all vehicles.

The committee recommends too that all vehicles should be treated alike regardless of the purpose for which they are used. A number of states have attempted to tax commercial vehicles, or some particular kinds of commercial cars, more severely than other motors on the ground that (a) such vehicles ought to pay as part of the registration tax something additional for the privilege of using the highways as a place of business or (b) they are driven more than privately owned automobiles, and consequently are more destructive to the highways. As a matter of fact, many vehicles registered as private passenger cars are employed just as definitely for business uses as are commercial cars.<sup>42</sup> It appears that in general about half the vehicle miles of travel on state roads by private motors are for business purposes except in the distinctly touring states, where the amount is more than one-fourth. Thus there is little justification for the franchise idea peculiar to the commercial vehicles. There may have been a time when commercial vehicles used the roads more constantly than did other classes; but it was not proved by careful investigation and is probably not now generally true. If it were true, the gasoline tax is peculiarly adapted to meeting such a situation, and so no longer leaves an excuse for imposing a higher registration tax on commercial vehicles. In fact, there is more difference in use as between individual cars than there is between classes of vehicles.

#### 4. COORDINATION OF GASOLINE AND REGISTRATION TAXES

Were it not for certain weaknesses the gasoline tax alone would serve to meet the problem of special taxation of motor vehicles. This form of impost, however, takes inadequate account of some of the very important factors of road destructiveness.

Fuel consumption reflects the speed at which a car is operated only to the extent that it is driven faster than it was designed to run, while generally any increase in speed is likely to result in

<sup>41</sup> Martin, *op. cit.*, p. 203, and especially, Charles F. Marvin, Jr., "A Technical Basis for Apportioning Motor Vehicle Taxes," *Public Roads*, May 1930, pp. 41-50. Other references to the opinions and investigations of Mr. Marvin are to this same article.

<sup>42</sup> Findings of the bureau of public roads and state highway departments in this matter are analyzed in popular form in Martin, "Common Errors in Highway Economics," *Kiwanis Magazine*, October, 1929, pp. 498-499.

greater wear and tear on the roads—at least on certain types of roads. For instance, the typical automobile passenger car does not consume more fuel a mile when running at twenty than at thirty-five miles an hour, although, particularly on low-class roads, the wear on the surface is considerably greater at the former than at the latter rate. Failure to take account of differences in the weights of various vehicles is even more clear-cut—and distinctly more important<sup>43</sup>—than shortcomings in reflecting rates of speed. For example, the six-ton truck may be three times as destructive to the average highway in a state as a three-ton truck, and yet fuel consumption is only 25 or 50 per cent greater. That means obviously that weight, though a condition of gas consumption, is not at all adequately reflected in the amount of fuel used. But most important of all is the failure of the fuels tax to take account of differences in tire equipment. The three-ton truck, for instance, may effect little wear on certain types of highways if equipped with pneumatic tires, while it is disastrous to the same road if fitted with solid rubber tires. Indeed, the average destructiveness seems to be multiplied by at least three if a vehicle is equipped with solid rubber rather than pneumatic tires.<sup>44</sup> But the amount of fuel consumed by a vehicle fitted with solid is only very slightly greater than that used by one with pneumatic tires.

Since destructiveness of vehicles is increased more than in proportion of their gross weights, and since those having solid tires are very much more destructive than those having pneumatic,<sup>45</sup> it is necessary if the problem is to be met by means of gasoline and registration taxes,<sup>46</sup> to work out a coordination of the two which

<sup>43</sup> Mainly because more is known about the relationship between weight and road impact, the best objective, carefully-studied measure of wear and tear on the roads, than about the relation of speed to any objective measure. (Under certain circumstances impact is not a reliable index of road wear; for example, although impact on pavement of a vehicle with solid tires is greater than with narrow ones, the former are not necessarily more destructive.) Such information as is available indicates that the relation of speed to wear and tear varies widely under different circumstances. For a summary and bibliography of experiments, see Buchanan and Smith, *loc. cit.*

<sup>44</sup> Mr. E. F. Loomis of the National Automobile Chamber of Commerce calls attention to the fact that solid-tire equipment in 1929 was standard on only 4.7 per cent of the trucks manufactured as compared with 29.8 per cent in 1921. The recent survey by the General Motors Truck Company (*National Motor Truck Analysis*, pp. 7, 8) shows that of 5,584 motor-truck users, 1,860 have recently substituted light or medium weight trucks for heavier ones with profitable results as compared with 811 who have made profitable substitutions of the opposite sort.

<sup>45</sup> Buchanan and Smith, *loc. cit.*

<sup>46</sup> Professor C. H. Sandage ("The Question of Motor Vehicle Subsidy," *Bulletin*, October, 1929, pp. 14-18) has made the ingenious suggestion that the entire charge for highway rental be based on road use, that part of the impost not cared for by the gasoline tax being collected in the form of a

will fairly distribute the burden between individuals. The committee believes that the task can be accomplished in each state by determining, preferably on the basis already suggested, a sum to be raised annually by means of special motor vehicle taxation and imposing a fuels tax which will raise one-half to three-fourths of the amount and a registration tax to secure the remainder. Since road space is at a greater premium, and consequently "peak-load" considerations more significant, in the populous northeastern states, it is suggested that these should raise a larger proportion of the total by means of registration taxes than should the southern and western states which are less densely populated.<sup>47</sup> (This reasoning does not apply so forcibly to the states in which there is a large amount of touring traffic, since by the gasoline tax alone can they secure revenue from motorists from without the state.)

Perhaps the reasoning may be made clearer by means of two examples. Suppose X is a densely populated state with three hundred thousand motor vehicles, each motor car consuming annually 530 gallons of gasoline, and that the commonwealth must raise each year to meet its motor road costs twelve million dollars.<sup>48</sup> A four-cent gasoline tax would yield \$6,360,000, leaving \$5,640,000 to be raised by means of a registration license. The registration tax must average \$18.80 a vehicle in order to meet the budget requirements. In such an industrial state, it may reasonably be expected that heavy vehicles will constitute a high percentage of the traffic,<sup>49</sup> so that the impost on the smaller vehicles can readily be made less than \$18.80. If a scheme of graduation based on the formula,

tax equals 4 plus 3 times (weight of vehicle and load in tons)<sup>2</sup>,  
be adopted as a basis, a scale of rates for various sizes of vehicles as follows would result and would meet the requirements:

|                                     |         |
|-------------------------------------|---------|
| less than 2 tons gross weight ..... | \$ 7.00 |
| 2-2.9 tons gross weight .....       | 16.00   |
| 3-3.9 " " " .....                   | 31.00   |
| 4-4.9 " " " .....                   | 52.00   |

steeply graduated mileage tax on heavy vehicles. While the plan deserves careful study, the administrative difficulties appear insurmountable for the time being.

<sup>47</sup> In general, as disclosed by Table VII, this is already the case.

<sup>48</sup> After deducting the amount to be raised by special assessments.

<sup>49</sup> Cf. for example, percentage of trucks of three-ton capacity and above in industrial Ohio or Connecticut with that in rural Maine. Bureau of Public Roads, *Report of a Survey of Transportation on the State Highway System of Ohio*, p. 56; *Report of a Survey of Transportation on the State Highways of Connecticut*, p. 51; "The Maine Highway Transportation Survey, a Preliminary Report," *Public Roads*, May 1925, p. 51.

|         |   |   |   |        |
|---------|---|---|---|--------|
| 5-5.9   | " | " | " | 79.00  |
| 6-6.9   | " | " | " | 112.00 |
| 7-7.9   | " | " | " | 151.00 |
| 8-8.9   | " | " | " | 196.00 |
| 9-9.9   | " | " | " | 247.00 |
| 10-10.9 | " | " | " | 304.00 |
| 11-11.9 | " | " | " | 367.00 |
| 12-12.9 | " | " | " | 436.00 |

Or the budget could be met by a formula less steeply graduated:

Tax equals 8 plus 2 times (weight of vehicle and load in tons)<sup>2</sup>.

In a state of this character, it may reasonably be expected that highway development would justify graduation approximating one or the other of these schedules.

The second illustration is Y, a state in the southwest which has a motor highway budget of fifteen million dollars<sup>51</sup> and a registration of four hundred thousand vehicles consuming an average of 550 gallons of gasoline each. A five-cent gasoline tax would yield eleven million dollars, thus leaving four million, that is ten dollars a vehicle or slightly more than one-fourth of the total, to be raised by means of the registration license. It is probable that the schedules suggested for X will raise just slightly more than this amount, so that, if the budget is to be exactly met, the constant item in each formula may be slightly reduced.<sup>52</sup> The difference in the revenues produced by the schedules in Y as compared with X is the result of the smaller proportion of heavy vehicles in the former. Reduction of the flat-rate element is to be preferred to lowering one of the items of graduation since in a state of this character the "peak-load" consideration is relatively less important than in more populous, industrialized states. Consequently it is essential in the registration tax on the smaller vehicles (say below two tons gross weight if equipped with pneumatic tires) to collect only an amount sufficient to (a) cover costs of administering the registration tax and of policing the highways (unless, as the committee would gen-

<sup>50</sup> The general suggestion on which this formula is based was made by Martin, "License Fee Properly Supplements Gas Tax," *Engineering News-Record*, May 5, 1927, but was given mathematical expression (though not this particular one) by Mr. Marvin, *loc. cit.* Adjustments for solid tires, six-wheel vehicles, etc., as suggested on p. 158, have been taken for granted. It is not to be inferred that such a scheme of graduation can be used as a substitute for regulation governing maximum weight that will be permitted, nor is it meant to suggest that thirteen tons should be the maximum. It may properly be more or less. See Appendix A.

<sup>51</sup> After deducting the amount to be raised by special assessments.

<sup>52</sup> Information is less readily obtainable concerning the distribution of vehicles of different sizes in a state like Y. The estimates are consequently less accurate approximations than those suggested in the preceding paragraph.

erally prefer revenue sufficient to pay for supervision of highway use is derived from driver's licenses).<sup>52</sup> (b) provide a modicum of revenue on account of "peak-load" considerations, and (c) provide a basis for graduation on account of tire equipment.

### III. GENERAL TAXATION OF MOTOR VEHICLES<sup>54</sup>

The other type of motor taxation is general in character and should not be regarded as special motor-vehicle taxation in any sense except occasionally as a matter of form. Two fundamental classes of such taxation should be distinguished.

#### 1. INCOME AND PROPERTY TAXATION

In the first place, consistent with the principle implicitly suggested above, if a property tax is levied on tangible personal property of other classes it should likewise be imposed on motor vehicles since ownership of such cars represents tax-paying ability in much the same sense as ownership of other classes of tangible personalty.<sup>55</sup> Imposition of such a tax would be in conformity with the recommendations of the model tax committee. Likewise it should be said that if an income tax is imposed on income from the employment of tangible personal property in general it should also apply to the income derived from the operation of motor vehicles.

#### 2. MOTOR BUSINESS TAXES

Concerning the second type of general taxation, there is much less agreement and considerably more difficulty. The difficulty arises in large part from the fact that in legislation, and to a considerable extent in general discussions, the business taxes imposed on those who operate motor vehicles for profit have been regarded as special motor-vehicle taxes. It seems more logical to think of them as business taxes very much like those imposed on railroads, interurban electric railways, street-car systems and other transportation agencies. Generally speaking, in levying such franchise taxes on motor transportation, whether in the form of gross-receipts tax, passenger-mile tax, ton-mile tax, or otherwise, an effort should be made to impose burdens as nearly as possible equivalent to the franchise taxes to which other transportation agencies are subjected, regardless of whether or not the forms of taxation are the same.

The form of franchise tax which meets most general approval

<sup>52</sup> See National Conference on Street and Highway Safety, *Ways and Means to Traffic Safety*, especially pp. 15-42.

<sup>54</sup> The remaining comments are submitted as hypotheses rather than as recommendations. The committee believes that these matters—more especially the business-tax question—deserve further careful study.

<sup>55</sup> No attempt is made to develop the best method of collecting such a property tax, especially as to whether or not it should be collected as a part of the registration license.

from critics appears to be that based on gross receipts, though in legislation other methods have been more generously used. The method which has been most often employed is simply a modification of the registration license securing additional contributions from the operators of motor vehicles for hire. Other plans, slightly less crude, now used in a number of states involve vehicle miles, ton miles or passenger miles, which are scheduled to be run. The use of gross receipts as a basis for taxation, however, is increasing. Its superiority is generally regarded as resting on two factors: (a) It provides a measure of business done and (b) it is a method employed in taxing franchises of other transportation agencies in a number of states. The committee suggests serious consideration of the gross-net and net income taxes in this connection, believing that either would be more equitable than the gross-receipts tax. If the recommendations of the model tax committee are taken into account, it would appear that the presumption is in favor of a business net income tax.

There appears no good reason for any discrimination in this matter between the businesses operating as common carriers and those operating as contract carriers, unless the former enjoy special privileges conferred by the state and not shared by the latter. In certain cases such special privileges are undoubtedly available to the public utility but not to the contract carrier. They may include protection from unfair competition as well as certain highway privileges, such as right to park on the pavement, special reserved spaces, *et cetera*, which are not ordinarily available to contract carriers. Any additional taxes or fees imposed on account of such considerations should be treated as general imposts rather than special highway levies.

#### IV. GENERAL SUMMARY

Summarizing, then, it may be said that there is a tendency, which ought to meet approval, to impose special gas and registration taxes on motor operation sufficiently high to pay street and rural road costs that would not have been incurred in the absence of the motor vehicle and that are not properly assessable against some other highway user or more equitably and conveniently collected from indirect beneficiaries of the highways. This can be done immediately in most of the older states but must come more slowly in some immature states of the south and west. General taxes, as those on property or income, should apply to motor vehicles or the income derived from them to the same extent as to other tangible personal property. If other transportation businesses are subject to a franchise tax, motor transportation, whether common carrier or not, should be taxed at rates which impose a substantially similar burden. The revenue from such a tax should be used for general purposes rather than for highway purposes.



APPENDIX  
APPLICATION OF SUGGESTED SCHEDULES TO VARIOUS CLASSES OF MOTOR VEHICLES  
*Table 1. Application of More Steeply Graded Schedule \**

| Gross Weight in<br>Tons | Tax on Pneumatic-tired<br>Vehicles |                                      |                   | Tax on Solid-tired<br>Vehicles       |                   |                                      | Tax on Solid-tired<br>Tractors |                                      | Tax on<br>Metal-tired<br>Vehicles |
|-------------------------|------------------------------------|--------------------------------------|-------------------|--------------------------------------|-------------------|--------------------------------------|--------------------------------|--------------------------------------|-----------------------------------|
|                         | With<br>Two Axles                  | With Six<br>Wheels on<br>Three Axles | With<br>Two Axles | With Six<br>Wheels on<br>Three Axles | With<br>Two Axles | With Six<br>Wheels on<br>Three Axles | With<br>Two Axles              | With Six<br>Wheels on<br>Three Axles |                                   |
| Less than 2 .....       | 7.00                               | 4.20                                 | 35.00             | 21.00                                | 43.75             | 26.25                                | 43.75                          | 26.25                                | 70.00†                            |
| 2-2.9 .....             | 16.00                              | 9.60                                 | 80.00             | 48.00                                | 100.00            | 60.00                                | 100.00                         | 60.00                                | 160.00                            |
| 3-3.9 .....             | 31.00                              | 18.60                                | 155.00            | 93.00                                | 193.75            | 110.25                               | 193.75                         | 110.25                               | 310.00                            |
| 4-4.9 .....             | 52.00                              | 31.20                                | 260.00            | 156.00                               | 325.00            | 195.00                               | 325.00                         | 195.00                               | 520.00                            |
| 5-5.9 .....             | 79.00                              | 47.40                                | 395.00            | 237.00                               | 493.75            | 296.25                               | 493.75                         | 296.25                               | Should<br>be                      |
| 6-6.9 .....             | 112.00                             | 67.20                                | 590.00            | 336.00                               | 700.00            | 420.00                               | 700.00                         | 420.00                               | doubtless                         |
| 7-7.9 .....             | 151.00                             | 90.60                                | 755.00            | 453.00                               | 943.75            | 566.25                               | 943.75                         | 566.25                               | excluded                          |
| 8-8.9 .....             | 196.00                             | 117.60                               | 980.00            | 588.00                               | 1225.00           | 735.00                               | 1225.00                        | 735.00                               | from                              |
| 9-9.9 .....             | 247.00                             | 148.20                               | 1235.00           | 741.00                               | 1543.75           | 926.25                               | 1543.75                        | 926.25                               | highways                          |

\* This table shows the application to several classes of motor vehicles of the first formula for computing registration taxes suggested in the report (see p. 161).

† It is probable a rate of about 60¢ of this amount (\$42.50) should be provided for vehicles having a gross weight of less than a ton.

Table 2. *Application of Less Steeply Graded Schedule\**

| Gross Weight in<br>Tons | Tax on Pneumatic-tired<br>Vehicles |                                      | Tax on Solid-tired<br>Vehicles |                                      | Tax on Solid-tired<br>Tractors |                                      | Tax on<br>Metal-tired<br>Vehicles |
|-------------------------|------------------------------------|--------------------------------------|--------------------------------|--------------------------------------|--------------------------------|--------------------------------------|-----------------------------------|
|                         | With<br>Two Axles                  | With Six<br>Wheels on<br>Three Axles | With<br>Two Axles              | With Six<br>Wheels on<br>Three Axles | With<br>Two Axles              | With Six<br>Wheels on<br>Three Axles |                                   |
| Less than 2 . . . . .   | 10.00                              | 6.00                                 | 50.00                          | 30.00                                | 62.50                          | 37.50                                | 100.00†                           |
| 2-2.9 . . . . .         | 16.00                              | 9.60                                 | 80.00                          | 48.00                                | 100.00                         | 60.00                                | 160.00                            |
| 3-3.9 . . . . .         | 26.00                              | 15.60                                | 130.00                         | 78.00                                | 162.50                         | 97.50                                | 260.00                            |
| 4-4.9 . . . . .         | 40.00                              | 24.00                                | 200.00                         | 120.00                               | 250.00                         | 150.00                               | 400.00                            |
| 5-5.9 . . . . .         | 58.00                              | 34.80                                | 290.00                         | 174.00                               | 362.50                         | 217.50                               | Should<br>be                      |
| 6-6.9 . . . . .         | 80.00                              | 48.00                                | 400.00                         | 240.00                               | 500.00                         | 300.00                               | doubleless                        |
| 7-7.9 . . . . .         | 106.00                             | 63.60                                | 530.00                         | 318.00                               | 662.50                         | 397.50                               | excluded                          |
| 8-8.9 . . . . .         | 136.00                             | 81.60                                | 680.00                         | 408.00                               | 850.00                         | 510.00                               | from                              |
| 9-9.9 . . . . .         | 170.00                             | 102.00                               | 850.00                         | 510.00                               | 1062.50                        | 637.50                               | highways                          |

\* This table shows the application to several classes of motor vehicles of the second formula for computing registration taxes suggested in the report (see p. 162).

† It is probable a rate of about 60¢ of this amount (\$800.00) should be provided for vehicles having a gross weight of less than a ton.

CHAIRMAN NORMAN: The advent of the automobile and the motor bus and motor truck has not only brought an added problem of taxation but it affects other interests, and the program tonight is designed to secure the viewpoint of interests that are affected by the motor vehicle, and the next paper on our program is "The Position of the Motor Vehicle Industry" by Mr. A. J. Brosseau, president of Mack Trucks. The secretary has informed me that Mr. Brosseau has not registered. I wonder if he sent a paper here by any member of the Association. If not, we will pass on to the next, "The Position of the Gasoline Industry," which will be presented to us by Mr. H. H. Ragle, president of the Michigan Oil Men's Association.

H. H. RAGLE: Mr. Chairman, Ladies and Gentlemen: I could not help but be somewhat amused as I came into the lobby. While waiting for the elevator I saw a man dressed in the very latest clerical frock. He was apparently accompanied by his wife and a little boy about seven years old. I overheard the little boy ask his mother "Is daddy going up there to pray for those tax men tonight?" The mother answered him, "Ssh, ssh, son, no, daddy went up there and took one look at those tax men and now he has gone out to pray for the people of the country." The little boy was still curious and I overheard him ask another question. He said, "Mother, do they levy and collect taxes in heaven?" The mother said, "No, no, my dear, only tax men levy and collect taxes."

## THE GASOLINE TAX AND THE OIL INDUSTRY

H. H. RAGLE

President, Michigan Oil Men's Association

### THE TAX ITSELF

Quoting W. S. Booten, chief tax collection officer of Tennessee:

"The gasoline tax is the giant of history and it will swell up and bust wide open within three years after it becomes unpopular."

Quoting George Horace Lorimer, editor of the *Saturday Evening Post*, as of March, 1925:

"Gasoline is the new goose. Wise, if cynical, was the master of finance who remarked that the art of taxation consisted of so plucking the goose that it should not squawk. Equity and taxation, equality and justice, are noble ideals, but so difficult of attainment as to be almost in the nature of myth. They are much sought for, but never found. Meanwhile the Legislators must provide funds, and provide them in a hurry.

Naturally, they seek where the seeking is softest and produces the least squawking. Just because a tax is easy to get, it is not necessarily the most theoretically perfect measure."

A Birmingham, Alabama, editor says:

"Taxing the automobile and its fuel just because they are easy to reach is not only sorry sportsmanship but sorry economics."

#### THE TENDENCY TOWARD INCREASES

In 1919 Oregon started the task of building the greatest giant of taxation yet known to mankind. From that year, with collections of \$4,700,000, the stupendous total of \$431,636,000 was collected from twenty-six odd million motorists in 1929, and it is estimated the gasoline tax toll for 1930 will approximate between \$500,000,000 and \$550,000,000.

It is running at present at the rate of \$1,200,000 per day; in 1929 it was ninety-six times that of 1921; thirty-five times that of 1922 and twelve times that of 1923.

In 1919 the levy amounted to 14c. per annum per car, whereas in 1929 the average motorist paid \$16.28; and if predictions are true, he will pay approximately \$20.00 in 1930. Seven states and the District of Columbia now collect 2c. per gallon; ten states, 3c. per gallon; one state,  $3\frac{1}{2}$ c.; eighteen states, 4c.; nine states, 5c.; three states, 6c.

The minimum 2c. tax is equivalent to 1c. for each six miles of highway travel and 6c. is equivalent to 1c. for each two miles of travel.

In ten years \$1,000,000,000 has been collected, \$900,000,000 of which has been poured into state treasuries during the past four years.

In 1929 fourteen states increased the tax 1c.; six states, 2c.

At the present time nine states are contemplating an increase of 1c. or more during the coming legislative sessions. In 1928 the average tax per gallon was 3c.; in 1929, 3.5c.; in 1930 it will figure, approximately, 3.8c.

Thomas H. McDonald, chief of the United States Bureau of Public Roads, has pronounced as "absolutely wrong" the tendency of many states to impose gasoline taxes in an effort to do away with bond issues for road construction. "It can't be done," says Mr. McDonald.

#### TAXING BY MUNICIPALITIES AND GOVERNMENT SUBDIVISIONS

One hundred Alabama cities levy additional taxes on gasoline ranging up to 3c. per gallon.

Forty cities in Missouri levy from  $\frac{1}{4}$ c. to 1c. additional; and other cities are contemplating similar measures.

In Kansas City alone it brings an estimated revenue of \$1200.00 per day, ostensibly for street repairs.

Early this year New York City proposed to add an impost of 3c. per gallon.

Many states recognizing such a menace have enacted their laws "in lieu of all other taxes."

As a matter of constructive forethought those states which now permit sub-taxing should give earnest consideration to the amendment of their laws to provide for the one state levy, and it would be only fair to the oil industry if the phrase "in lieu of all other taxes" could be interpreted broadly enough to eliminate gasoline from the personal property tax rolls.

#### DIVERSION OF FUNDS

Through something like 15 different kinds of taxes which the motorist must now pay, and with license taxes and gasoline taxes bringing the total up to within \$800,000,000 and \$1,000,000,000 per annum, the motorist is now perhaps the most heavily taxed individual known in the entire field of taxation.

As the rural number dominates most state legislatures, whose sole idea in the imposition of tax measures seems to be that of making the cities share an inequitable proportion of the entire tax burden, many proposals for a diversion of funds into avenues not even remotely connected with motor vehicles have been successfully passed.

In Florida 1c. of the 6c. tax goes to the public school fund.

In Georgia a 1c. kerosene tax and  $\frac{1}{2}$ c. of the gasoline tax goes to the public school fund.

In Texas one-fourth of the 4c. tax goes to the support of public schools.

In Idaho the tax paid by motor-bus and freight lines goes into a motor-vehicle fund for highway traffic control.

In New Jersey a portion of the tax has gone for the construction of inland waterways.

In Georgia a part of the tax formerly went for the "salvation" of a defunct railroad.

In New Mexico a portion of the tax was formerly diverted for the upkeep of a fish hatchery.

In Florida a proposal was made to use \$2,000,000 of the gasoline tax money to advertise the state (no doubt inspired by the real-estate profession who had some land to sell by liquid measure).

In the state of Vermont the tax is payable to the State Treasury without definite stipulation as to its subsequent use and disbursement.

Various state legislative members have openly proposed in legis-

lative halls to increase the gasoline tax to a point where it will later be possible to lower general taxes.

In Kansas City serious proposals were made to make up the Police Department's deficit from gasoline tax money. In Illinois it was proposed to introduce a bill for diversion of sufficient funds to subsidize at least a large portion of a \$10,000,000 enterprise in lowering the tracks on the South Chicago branch of the Illinois Central Railroad.

In Louisiana a 1c. increase has been proposed to pay off a \$41,000,000 indebtedness of the New Orleans Dock Board.

It does not require a wide stretch of the imagination to picture what some of the 1931 legislatures may propose to do with this "golden goose" known as the gasoline tax, although so largely plucked of her prolific plumage that she may shortly die from sheer exhaustion or of "legislative murder."

#### REFUNDS

The majority of states permit refunds of tax paid which has supposedly been used by other than motor vehicles on public highways.

It is a striking testimony to the "shrewdness and sharp figuring of mankind" to note how rapidly the percentage of refunds in relation to the total tax collected accelerates with the increase in the rate per gallon.

In one state refunds on a 4c. tax are equivalent to 25%. In another state where under a 2c. revenue refunds were equivalent to 32%, claims jumped to 45% under a 3c. levy.

An agitation has been started by county and state officials of Colorado planning amendment to abolish refunds because of abuses, the state losing approximately 12%, or \$60,000 per month. In Colorado 94% of the refunds were claimed by farmers.

In Texas the farmer receives 63% of the refunds.

In Iowa they are handling 10,000 refund vouchers per month and the figure is increasing.

While there may be merit to exemption claims for gasoline that is used in other than motor vehicles on public highways, experience has indicated that refunds furnish the opportunity for petty frauds, especially in the rural districts where the farmer as the principal beneficiary of good roads is always open to the charge of using refund gasoline for all of his activities.

Refunds are illogical, unjust, burdensome, they invite evasion and in general the tax laws should be amended to more severely restrict the use of the privilege or the refund should be eliminated altogether.

## THE COST OF COLLECTION

Gasoline tax advocates have continuously boasted of the economy in collection. They have lost sight of the fact, however, that the tax is not collected by the state administrative officials, but rather by the oil industry and without particular expense to the state.

Furthermore, it is the only tax so collected, where an industry is compelled by law to guarantee its collection and payment to the state.

The records of the United States Bureau of Roads indicate that it costs less than \$24,000 annual average per state to collect the tax, while at the same time it costs on an average of more than \$400,000 per annum to collect registration fees and to administer registration laws. Moreover, the gasoline tax yields approximately \$450,000,000 to \$500,000,000 per annum as against \$350,000,000 in registration fees.

In one state where figures were available it cost slightly less than four-tenths of one per cent to collect approximately \$10,000,000 in gasoline taxes, whereas in the same state it cost three and one-half per cent to collect \$24,000,000 in license fees, etc.

It is true that the gasoline tax has become a popular measure, largely on account of the very low cost of collection to the state itself, but too frequently state legislatures have been most reluctant to recognize the principle of fairness to the oil industry in connection with its cost of collection.

From a tabulation made last year in 28 states and the District of Columbia the oil industry was held responsible for 100% of a tax without any allowance whatever to cover normal shrinkage due to evaporation and handling.

Six states permitted an allowance of 1%; four states 2%; nine states 3%, and one state 4%.

In several states the oil industry is required by law to remit the tax on the basis of invoiced receipts, notwithstanding the theory of the tax being applicable only to gasoline actually used on the public highways.

An allowance by the state of anything less than 3% to cover only the natural shrinkage in handling and to compensate for at least a part of the cost of collection is unthinkable and incompatible with the principle of the old saying, "Every laborer is worthy of his hire."

Furthermore, it is obviously unfair that the oil industry should not have equity along with the state so far as possible in connection with prosecution of tax evaders in the case of dead-beat purchasers of gasoline.

Many of the states provide for seizure of property, revocation of license to do business, the infliction of heavy penalties if a unit

of the oil industry fails in paying the tax promptly, yet the oil industry's only alternative in the collection for its merchandise and for the tax due from the consumer is through a long-drawn-out and often very unsatisfactory process in the civil courts.

From the state's viewpoint the gasoline tax is a so-called "painless method of extraction." In the state of Michigan there are approximately 500 units who make their monthly remittances to the Secretary of State, involving something like 6,000 transactions per annum. Based on last year's sales of gasoline it meant approximately 136,000,000 operations for the oil industry in collecting the tax with each average five-gallon sale.

The same ratio will no doubt apply with little variation in each of the other forty-seven states.

#### THE INDUSTRY'S POSITION

In 1913 the average price of gasoline was .168c. per gallon; May 1, 1930, it was .1713c. per gallon without tax, and with tax .2093c.

The New York Federal Reserve Bank estimates that \$1.74 is required to pay the cost of living today as compared with \$1.00 in 1913. Had the price of gasoline increased accordingly without the tax the motorist of today would pay .292c.

The oil industry in the past 17 years has, however, saved the motorist approximately 12c. per gallon, only part of which he has received, however, on account of the rapidly increasing rate of gasoline-tax taxation.

The alarmingly rapid rate of increase in gasoline taxes in the past few years has been due most largely to the oil industry's spectacular daring in bringing about improved scientific methods of production, chemical research, refining and cracking processes.

Speaking conversely, had the oil industry not undertaken these phenomenal improvements and had the price of gasoline increased proportionately to that of all other essential commodities the gasoline tax bill of the motorist of today would be infinitely smaller.

A prominent tax expert in the oil industry re-states: It is an economic law from which no business can escape, that with rising prices, consumption decreases. Naturally, surplus increases, and with resultant falling prices the surplus must move at the expense of profit."

To be specific, the oil industry in its anxiety and necessity from time to time to move its stocks and to be in a position to meet its obligations must depress its prices to a point where there is not room for both tax and profit, and since the tax must be paid, profits must suffer accordingly or be wiped out altogether.

With a tax ranging from 18% to 33% of the value of the commodity at re-sale prices, finding its level conservatively at an average of 25% of the retail price, less tax, and due further to the fact



that the oil industry as an industry is more heavily taxed than that of any other legitimate business, it is no wonder that the directors of the American Petroleum Institute in March, 1929, passed the following resolution:

"RESOLVED, That we do not oppose the levying of a gasoline tax where all the revenue derived therefrom is used solely for highway construction and maintenance purposes, but we oppose the fixing of a rate per gallon tax beyond reasonable bounds or where the rate the consumer must pay is out of equable proportion to the price of the gasoline."

In conclusion, let it also be said that the oil industry is not alone concerned over the menacing tendency in gasoline taxation. Studious editors throughout the nation have been hurling their blackest ink in a protest.

Various state officials and administrative leaders are beginning to realize that gasoline taxation is unmistakably headed towards its own suicide.

Quoting again from a tax expert of our industry:

"You and other gentlemen will continue to urge higher taxes and more revenue, for what seem to you to be perfectly laudable ends, until sleeping public opinion suddenly becomes an active and relentless fury, which will wipe out your road building and your paternalistic schemes. Your roads will end in the mud short of destination and there will be no money to repair the holes in their surfaces. In other words, gentlemen, when cost of government is taking 25 per cent of the total income of the people of the United States, or perhaps 20 per cent or perhaps 18 per cent, nobody knows where the break will be, your iridescent bubble will explode and you will secure for some time to come, with great difficulty, the necessary revenues to carry on the necessary governmental activities."

CHAIRMAN NORMAN: The next paper on the program will be "The Position of Competitive Transportation Industries." This viewpoint will be presented by Mr. Thomas G. Watson, tax commissioner of the Canadian National Railways.

## THE POSITION OF COMPETITORS OF TRANSPORTATION INDUSTRIES

THOMAS G. WATSON

Tax Commissioner, Canadian National Railways

The motor industry and its close ally, the oil industry, have offered their views on this subject; the case for the general public will also be presented, while to me, a representative of the Canadian National Railways, has been allotted the task of presenting the

case for the railways, and while I greatly appreciate the honor you have done me, I am at a loss to understand why you should have chosen one from such a wet state to speak on such a dry subject.

I am sure we are all agreed that the question of equitable taxation of motor vehicles is a matter of prime importance and one which is worthy of intensive study; but before proceeding further I shall take this opportunity of congratulating the committee on its comprehensive report on this subject, and also on their sincerity in attempting to reach a satisfactory solution of this problem, as is evidenced by the invitations which have been extended to interested parties to contribute to this discussion.

A detailed examination of motor-vehicle taxation in the various states reveals a complete lack of uniformity both in the amounts and basis of such taxation, and merely emphasizes the perplexity of the problem rather than indicating a solution.

The very life of a country is in its transportation facilities, and while great care should be taken to prevent economic waste thereof, similar care must be taken to ensure that no facility is subsidized so as to compete unfairly with another. With the advent of the motor vehicle, a new land transportation agency of great potentialities has been made available for the public, and in giving consideration to its place in a general economic scheme of transportation, one fact must be constantly borne in mind, viz.: the railways have no vested right in land transport.

The development of the motor vehicle has been phenomenal in its rapidity, and the railways have been unable to readjust themselves at such a rapid rate, with the result that they may be at present inclined to emphasize the inroads this new agency has made on their revenues without giving due consideration to the many benefits which have accrued not only to themselves but to the country as a whole from the motor vehicle; and while specifically the losses sustained in railway revenues are large, I have endeavored, in the presentation of this paper to consider transportation in its broadest economic sense.

In the beginning, railway executives are prone to consider this new agency as an enemy, a poacher on preserved rights; but we, in Canada at least, believe that the day is past when the motor vehicle will be thought of only as a competitor to the railways. It is becoming more apparent that while some competition may exist for certain classes of traffic, the coordination of these two offers a complete and well-rounded land transportation service.

The railways are equipped to move large volumes of passengers and freight, especially over long distances, and must perforce remain the backbone of any national transportation scheme; but, it would appear that the motor vehicle should be closely allied with them as ribs of the system, the two forming the transportation

structure adapted to all the strain which may be put upon them. In brief, there is a distinct field for the motor bus and motor truck, and it is believed that this new transportation facility will find its appropriate place in the economic life of the country and that eventually each means of transport, if allowed to work out its future on the basis of economic principles, will hold that place for which it is best adapted.

Let us for a few minutes examine the effect this new agency has had upon the railways, first as regards passenger traffic, and then in regard to freight.

It is estimated that the passenger revenues of United States steam railways for 1930 will be 40% lower than they were in 1920, and when one considers that this percentage difference amounts to \$780,000,000, the enormity of the motor-vehicle passenger movement is fully realized.

The motor-vehicle agencies of passenger transport are the automobile and the bus, and as between 1920 and 1930 the number of registered private automobiles increased 190% to 23,700,000, it is not difficult to imagine where railway passenger traffic has gone. The bus was gradually evolved. At first its sphere of action was limited to the short-haul field and it became a competitor for this class of traffic. The desire to ride on rubber had caught the public fancy, and railways engaged in this class of service rapidly felt the effects of this new facility.

Due to the frequency, elasticity and convenience of its service, the bus apparently more readily lends itself to the handling of passengers in the short-haul field, always excepting the movement of commuter traffic to which the bus is not so well adapted, and consequently in giving consideration to a general economic scheme of transportation, it would appear that such traffic rightfully belongs to a bus movement and that the steam railways should confine their efforts to the haulage of long-distance passenger traffic.

Bus services have gradually been extended until long-distance busses are to be found operating from coast to coast. This experiment was viewed very skeptically by the steam railways; but the results obtained have apparently justified the effort.

The passengers using these busses fall generally into two classes, those to whom the cheap rates make a special appeal and those to whom the desire to take an extended ride on rubber is uppermost. The fares charged must have a definite relationship to operating expenses, and if these busses are not paying a fair and equitable tax for the use of the highways, an uneconomic condition arises, and we have destructive competition with large amounts of capital tied up in a business which is not founded on sound economics.

If, however, the tax is fair and equitable, we have fair competition for the long-haul passengers. The railways offer a very high-

class service to long-distance passengers, and if the bus traffic continues to grow, when established on an economic basis, it would appear that the railways to meet the competition for this traffic must reduce rates and offer inferior service to that at present provided. The passenger who is attracted to the bus by the desire to ride on rubber will not use the rails and will offer a certain amount of business for bus movement, while for the remainder of the long-distance travelers, it is conceivable that fair competition can exist between the bus and the railways.

The motor truck has made very appreciable inroads on railway freight earnings, particularly in the less-than-carload and carload short-haul shipments, and has taken what may be termed the "cream" of such traffic, leaving the bulky and hard-to-handle freight for the railways. Due to the heavy handling charges, it is exceedingly doubtful if short-haul L. C. L. traffic is profitable to the railways, and, if not, why should its loss occasion them any alarm? A movement of goods is only complete when transported from the door of the consignor to the door of the consignee, a service which the motor truck is admirably adapted to perform, and it may be confidently anticipated that where the goods lend themselves to truck movement, they will move thereby up to distances where the times consumed for the complete movement by truck or by rail are nearly equal.

As with the movement of passengers, the private trucks represent approximately 90% of the total. Rail traffic lost to these has been lost solely on the grounds of convenience; but it must be borne in mind that the greatest bulk of tonnage moving by truck is in terminal zones and certain suburban areas and represents a traffic not formerly handled by rail.

Having briefly outlined the activities of the motor vehicle as a transport agency, it is necessary to consider the means by which such a facility has been made available to the public. The answer is contained in two words, "*good roads.*"

The roads belong to the state and consequently are public property. They have been built with public funds, are subject to destruction and constantly require renewing and reconstruction. The necessity of identification of motor vehicles involves registration, with its attendant expenses, and the imposition of registration fees on motor vehicles at least sufficient to defray these expenses appears readily justifiable. It must be admitted that various public authorities in their efforts to have sufficient funds available for highway construction increased these fees to a higher figure than was originally intended, and as the funds accruing therefrom were still not sufficient, a tax was placed on gasoline, which it must also be admitted has a certain measure of fairness in that the gasoline consumption bears some relationship to the use made of the facility.

This was the primary function for which roads were intended; but with the advent of the motor bus and the large motor trucks, the question of what tax they should pay for the use of public property for personal gain has arisen. In this regard the railway companies only insist that a fair and equitable tax should be applied commensurate, first, with the privilege of using public property for personal monetary gain, and secondly, with the destruction of the facility thereby.

The railways have their fixed tracks, a large investment in their own roadway, equipment and costly terminals, which are all subject to burdensome taxation. A survey of railway taxation published by the Bureau of Railway Economics at Washington this year shows that taxes paid by railway companies in the United States now absorb 6.32c. of each dollar of gross earnings and represent 22.35c. of each dollar on net earnings out of which taxes must be paid.

The motor vehicle, on the other hand, makes use for personal profit of roadways provided by the public. These roads in many cases parallel with the railway and are maintained in part by taxes levied upon railway property; thus railways find themselves heavy contributors to a fund for building rights of way for competitors. These roads are open for use by all and sundry, and now that specially constructed highways have to be built for the accommodation of this motor-vehicle traffic, it is evident that the government should be more insistent that these vehicles should pay a reasonable share towards the cost and maintenance of the highways. In this the demand of the railway companies is in harmony with the general public.

In conclusion, it may be briefly stated that there is a distinct field for the motor bus and motor truck in a general economic scheme of transportation. The material progress of the country has depended on nothing so much as the means of communication, the facilities for conveying men and goods, and there should, therefore, be no attempt to strangle the motor-bus industry by over-taxation. A fair and equitable tax, however, should be imposed for the use of the highways and what practically constitutes a monopolistic right.

CHAIRMAN NORMAN: The next paper will be "The Position of the General Public," which will be presented by Mr. M. M. Dougherty, of the University of Delaware.

## THE POSITION OF THE GENERAL PUBLIC

M. M. DAUGHERTY

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The general public is interested in the subject of motor-vehicle taxation because the general public is the proprietor of the highways for benefit of which it is proposed to tax these motor vehicles. The aim of government is so to coordinate the diverse interests of its citizens that a mutually helpful organization, the state, shall result. The aim of highway taxation is to coordinate the diverse interests of the beneficiaries so that a continuous and permanent system of highways shall result. But I have been unable to define the words "General Public," and I have decided that since the general public is composed of several minor publics I shall have to discuss the committee report from the standpoint of each interested group of the general public.

If the admirable paper read by the chairman of the committee be open to criticism, one of the criticisms would be that it does not examine the question of highway finance in sufficient detail from the standpoint of the science of public finance, nor from the standpoint of the economic theory underlying the principle of highway transportation. Possibly too much emphasis is laid upon the present practice of highway taxation without a corresponding endeavor to extract from this multitude of figures, principles which would enable a state so desiring to initiate or revise its taxation system more economically and satisfactorily to serve the users of the highways as well as lessen the burdens upon the other taxpayers. From the standpoint of economics or of public finance, no state at present has anything like an ideal arrangement for financing a complete highway system. Many states have portions of such a system, and there is a possibility by applying the principles of the science of public finance and economics, to arrive at a system of public finance for the support of highways which would be very much of an improvement upon anything we have at present. The report, as far as can be said that it favors any particular theory of financing the highways of the United States, inclines to the benefit theory, especially in section IV, General Summary, in the statement, "Summarizing, then, it may be said that there is a tendency, which ought to meet approval, to impose special gas and registration taxes upon motor operation sufficiently high to pay street and rural road costs that would not have been incurred in the absence of the motor vehicle and that are not properly assessable against some other highway user, or more equitably and conveniently collected from indirect beneficiaries of the highways."

The study of the history of transportation reveals that as we

have adopted the benefit theory of taxation we have progressed in transportation. The toll road came into being and was successful because it levied the tax upon the user instead of the land. The canal and the railroad came into being because of the advance in the arts, not a change in the method of finance from the toll-road system. Affording facilities for highway travel is an economic enterprise, which, though it be under the proprietorship of the public, should be supported by the beneficiaries. There is no more reason why the land owner should subsidize motor vehicle transportation by paying part of the cost through his tax bill than there is why he should pay part of a railroad ticket or a freight bill. Now we have the motor-car license and gasoline taxes, and we are progressing in the construction of highways in proportion as we levy the tax upon them for the support of the economic good afforded them. But in taxing the motorist for the benefits which he receives, it is necessary to take strict account of just what he does receive. The great bulk of the motoring public is receiving the benefit of highway facilities on only a very minor percent of the rural highways of the United States, and he is receiving it at the present time only, not twenty or forty years hence.

The committee reports that there are in the United States some three millions of miles of highways, only about 20 per cent of which has been surfaced. Of this 20 per cent only about one-fifth has been surfaced with pavement as permanent as bituminous concrete. If it be the intention of the committee report to recommend that motor vehicles be taxed upon the benefit theory, then it should have laid more emphasis upon the fact that the great bulk of motor traffic tends to concentrate upon a relatively small percent of the rural highways. There is a great difference between the physical limit of highway construction and the portion upon which motor travel concentrates. This difference is touched upon in the statement that the 65 per cent of the state highway mileage carries from 50 to 90 per cent of the motor traffic. This state highway mileage is supposedly in the 7 per cent system, and when the 7 per cent system is complete it will carry about 90 per cent of the traffic. The immediate problem is to get the 7 per cent paved with a high type of surface. The motoring public is now interested only in the construction and maintenance of the highways upon which motor travel concentrates. The motoring public as a class is willing to pay for what it gets, and in order for it to get what it pays for, the limitation of the expenditure of public funds collected from motorists to the construction and maintenance of a highway system upon which the bulk of the motor travel concentrates, is a necessity. If highway transportation be an economic good, then the measure of the need of that good is whether or not the tax yield of that highway system will support it, and therefore it is necessary to

limit the highways included in the system to those upon which travel concentrates. The benefit theory means more than making the beneficiary pay for what he gets. It also means giving him what he pays for. The test of need of a highway system is whether or not, economically and properly financed, those who use it will pay its costs.

If the system thus limited to the principally traveled highways be viewed in the large, it will be found that at a given gas tax and registration fee some highways will yield much more than is sufficient to pay their costs, including capital charges, because a four-width road will carry much more traffic than will a two-width road and it does not cost twice as much. Conversely, some seldom-traveled roads cannot be maintained from motor taxes because a tax sufficient to maintain it cannot be laid on the motor vehicles, there are too few of them going that way. Thus, the highway enterprise is one of increasing returns; the more traffic over a given road the less it costs to give the service. The highways of lesser use cannot be maintained by the motor tax because there is not a linear relationship between use of a highway, and hence yield of revenue, and its cost, including maintenance, and motorists should not be taxed for the support of highways upon which they do not travel. To lay a sufficient tax to maintain and construct all highways from motor-tax receipts would be a burden all out of proportion to the benefits to the motorist.

The committee report states that since 1921 the motor population has increased from 28 to 40 per paved mile of rural highway, but it does not state that as increased motors are put upon the roads, we do not need new highways in that same proportion because the new motorist travels largely over the same roads that were used by the former, and few roads are now used to capacity.

Thus I wish to make the point for the motoring public that if the committee would recommend the benefit theory, then it should also recommend a sharp limitation of highways to be included in the system which is worthy of support by motor vehicles.

The second possible point to be used in judging the committee report from the standpoint of the benefit theory, is an axiom of public finance. Payments for a major improvement should be spread over the anticipated life of the improvement. Highway construction, highway taxation, and highway administration are all part of a whole, and by limiting itself to a consideration of taxation, I believe the committee has limited its scope too severely.

Throughout all the report the question of bond issues is almost omitted, and I believe, improperly. The taxation of motor vehicles is but one of the taxes imposed for the benefit of highways, and it should be coordinated with other taxation for highways so that the least injustice shall result. To coordinate it, it is necessary that the



important element of time be included. No system of taxation or scale of rates is equitable which undertakes to pay for highway construction from revenue. If the public be called upon to judge between a "pay-as-you-go" policy by taxing motor vehicles for highway construction, and the deferred-payment plan by issuing bonds and levying a general property tax for their retirement, it will choose the bonding plan. It will choose the latter plan because the injustice of taxing general property for the benefit of motorists is less than the injustice of making the motorist pay for something a motorist will get twenty years hence. But both plans are unjust. As judged by the benefit theory, the bonds should be issued but the debt service upon them met from the motor-vehicle tax receipts.

In this connection, it may be well to call attention to the committee's use of the word "poor" state. Our chairman for this evening is from one of the states called poor. Poor may mean several things, but judged from a standpoint of public finance, a state endeavoring to construct as well as maintain a highway system from current revenues is a poorly financed state. Nevada is called a rich state, but its low percentage of levy on motor cars may be largely on account of its receiving a large slice of the federal aid funds. The method of financing may be more important than the per-capita wealth.

Thus far in the discussion of the committee's report the question of taxation of the main-road user alone has been considered. If the main roads be contained in the seven per cent system, 93 per cent of other roads are excluded, as are all the streets in incorporated towns. If the question be asked: upon what theory should they be financed, the answer would be, upon the benefit theory, but not the direct benefit theory—the territorial benefit theory.

Our system of support for public highways is a product of evolution. Before the advent of the motor car, all highways were supported on a local benefit basis, by the general property tax, and this was not such a bad scheme because the road user and the property owner composed a homogeneous group. There was little inter-community or inter-county travel. The excuse for initiating motor taxes was that, (1) It broadened travel away from the residence of the taxpayer so that the general property taxpayer was no longer synonymous with the highway user; (2) The motor car required a more substantial type of road than the former vehicle; (3) The non-motoring public did not travel, and hence did not cause an expense which was in any way commensurate with his payments as a property owner.

The committee would levy a special assessment for highway purposes against property in cities but not against rural properties. From the standpoint of the urban public the chief reason for assenting to this difference is that of the difficulty of ascertaining

what benefits accrue to a farmer for having a road pass his place. On rural roads off the main traffic routes, the 7 per cent system, the beneficiaries are the land owners, at least more than any other group, and must be looked to to bear the brunt of financing their own roads.

But in the cities the application of the benefit theory is complicated by the fact that there are two beneficiaries who can be made to pay, the motorist and the property owner. To the extent that city-owned motor traffic is concentrated in the cities the territorial benefit theory still has considerable value. The city motorist and the city property taxpayers are the same group. But the motor car requires a more costly type of pavement in the city than would have been otherwise economical, and the motorist does not use nor benefit from the streets in the proportion that he pays property taxes. It is a profitable proposition for the land owner in a city to have his street paved. It is a profitable proposition for the motorist to pay the cost of a pavement if there be sufficient motorists traveling that way and the capital charges be spread over a reasonable period.

#### FORM OF SPECIAL TAX; GASOLINE TAX

The committee report discusses the relative proportion of revenue to be raised as between the motor-license fee and the gas tax.

If it be agreed that the beneficiaries of the highway system should pay the cost of such a system, all will agree that each motorist should be taxed on a basis which will insure each individual paying for his share of the cost. The proper relationship between gasoline taxes and registration fees is a question upon which the engineer is more qualified to be heard than the economist, for the destructiveness of a given motor vehicle varies with the type of road over which the vehicle travels.

The table of registration fees is by no means equally applicable to all states, because those states having low-grade pavements must put a prohibitive tax upon the vehicles weighing over, let us say, six or eight tons. The report gives little light upon any principle to be used in determining the amount of gross revenue to be raised and applied to highways.

The motorist whose home is away from a city is taxed by the general property tax for his own streets. He is also taxed by the motor-license fee and gas tax to maintain the roads. It seems to me that in order to ascertain the proper height of the motor taxes, one must take into account whether or not part of the receipts are going to be returned to the locality from which they are collected, and used to relieve the burden upon the general property taxpayer. There are two possible solutions to the question of settling the height of the tax, and it is a question of relative injustice. Whether

by a low motor-tax rate and local support of local roads by the general property tax more injustice is done to the land owner by making him pay for some of the expense caused by the motorist, or whether a higher motor-vehicle tax a part of which would be returned to the localities would work a greater hardship upon the motorist by making the trunk-line user city motorist pay for roads upon which he does not travel. But I do not wish these remarks to be interpreted to mean that each individual road shall be judged worthy of support by its traffic and hence a yield of revenue, as was suggested this afternoon. The traffic upon the main roads is not solely caused by travel between distributing centers. Much of it originates on the side or feeder roads, and it seems to me that in a highway system supported by motor-vehicle taxes, the branch-line principle is as applicable as it is in railway transportation.

In deciding the height of the tax upon motor vehicles, those who set the tax rates must consider that only highways traveled by the great majority of motorists are worthy of state support. For to do otherwise is to compel the motorist who does not travel off the main routes to support highways upon which he seldom travels. But local roads must be supported some way, and in order to prevent the land owner from being taxed for the benefit of the motorist, the level of rates should be set so that the tax receipts will care for the roads upon which the motor traffic concentrates. Then let the land owner pay for the roads which will not yield enough revenue at the given tax rate to support themselves. But after the tax rate has been set, the travel upon the road, not the locality of use, is the proper criterion of judging the worthiness of support of the given highway.

If the highways be classified in accordance with the amount of motor travel, and only those upon which the great bulk of motor travel occurs be supported from motor taxes, and the system of bonds retired from motor taxes be initiated, the gasoline manufacturers will have no complaint because the gasoline tax will not be sufficient to force its being shifted to the producer in appreciable amounts entirely possible that high gas taxes are shifted, in part, back to the producer. If the railroads be called upon for taxes only for the local roads, their tax burdens will be so materially lessened that we will hear no more from them.

#### GENERAL TAXATION OF MOTOR VEHICLES

1. From the standpoint of the general property taxpayer, if personal property be taxed in a state, motor vehicles should also be taxed, but at the same rate and the same relative relationship between sale value and assessed value as other personal property.

2. Motor Business Taxes.—From the standpoint of the business taxpayer, if a business tax be imposed upon other common carriers,

there is no reason for exempting motor-vehicle common carriers. They should be taxed upon their tax-paying ability, rather than upon any basis of placing an economic handicap upon them as was suggested in our Saranac conference. The general business man could recommend that the revenues thereof be placed in the general fund of the state.

For the present, in this immature stage of motor-vehicle common-carrier system, it is the writer's belief that the business tax should be placed upon the gross receipts because of the ease of collection of such a tax and its definiteness of levy.

#### GENERAL SUMMARY

In the general summary there are no recommendations or resolutions. Perhaps the committee has no recommendations or resolutions, but after such an exhaustive study it seems there should have been some conclusions upon which the National Tax Association could act as a body.

CHAIRMAN NORMAN: The motor vehicle competes not only with the steam railroads but with the street railway company, and so Mr. Charles L. Carr, general solicitor of the Kansas City Public Service Company, has been asked to present the position of the street railways on motor-vehicle taxation. Mr. Charles L. Carr.

CHARLES L. CARR (Missouri): Mr. Chairman, Ladies and Gentlemen: I have been asked to pinch-hit for the president of the Kansas City Public Service Company, who could not be here tonight, and I hope you will bear with me in the few rambling remarks which I shall make.

The subject has been approached and discussed by the committee mainly from the standpoint that the tax for the construction and maintenance of public streets and highways should be upon the motor vehicle and the adjacent property owners. The committee report does note in a few words and in brief general language an exception to the foregoing placement of said tax, substantially in the following language: Except where the expense of the public highway can be equitably and conveniently placed on public utilities, common carriers and, in particular, street railway companies.

The committee has covered a broad tax field in those few words in which the exception has been couched. It is to the above exception, not discussed by the committee, and then only in so far as street railways are concerned, that I desire to direct my remarks.

First, I want to take you back to the early days of street railway operation. I am not going to be long in my discussion, as the hour is getting late.

In the early days of street railway operation there was no auto-

mobile competition. The street railway in the city was the only fast means of transportation. There was no real competition by the horse-drawn vehicle. It was too slow. Street railway companies in the cities had a monopoly. They were earning a reasonable and perhaps an excessive profit. As a consequence, they were very liberal in assuming obligations and particularly when obtaining franchises. They were willing to agree to anything; and so far as this subject tonight is concerned, they were willing to agree to pave between the tracks and eighteen inches, more or less, outside of the tracks, in order to get the franchise.

In the day of the horse-drawn or mule car, there was a valid reason for imposing upon the street railway company a portion of the paving burden. It was argued, and rightly so, that the horses and mules helped to wear out the pavement, and that the street railway company should stand at least a portion of the paving expense.

When the change was made from horse or mule car to the electric car, however, this reason for assessing street railway companies with general paving charges disappeared and faded into the background, but the precedent had been established that street railway companies must pay for pavement construction and maintenance within the rails and for a distance outside the rails, and the street railway company, prospering at the time, continued with little or no objection to make such pavement.

Later, when the automobile came, bringing with it fast and real competition with the street car, and the desire of people to ride on rubber, there was a decrease in the riding habit on street railway cars. Such decrease has become so great in the last few years that the street railway companies of the country have had either to abandon operation, curtail service, go into receivership, or continue operation by practicing the strictest economy.

In Kansas City, on account of decreasing revenue, it has been necessary to change all street railway equipment for operation by one man rather than two, and now the local street railway system is 100 per cent one-man in its operation.

Notwithstanding the great reduction in operating expenses that has been effected by the local street railway company it has been compelled to go to the public service commissions of the states of Missouri and Kansas in an attempt to obtain relief through higher rates. A test rate case is being tried at this time to obtain new and replace old equipment, and to attract new capital, but it is not bringing in the revenue that is necessary to maintain a first-class street railway service.

The local street railway system (Kansas City)—aside from paying approximately \$580,000.00 a year for taxes of various kinds—in the three-year period from October 15, 1926 to October 15, 1929,

expended \$792,000.00 for reconstructing street paving; an expenditure that, if the street railway tracks had not been present, would have been assessed against adjoining private property.

It is submitted that something should be done at this time to relieve street railway companies of the burden occasioned by paving charges and assessments. To avoid such burden some companies are doing away with the rail. Some are substituting the trackless trolley; others are substituting the bus. Many companies, however, do not have the available capital to make the change. In the latter situation, the public governing body—either the municipality or the state, as the case may be—through proper legislation, should relieve the street railway company of the paving burden so that it may continue its public function.

I have already pointed out that the original reason for requiring street railway companies to pay for paving construction and maintenance, namely, that the horses and mules wore out the paving, disappeared with the advent of the electric car. Another reason, however, is now advanced for requiring street railways to participate in paving cost. It is stated that street railways in using the public streets are enjoying a special privilege and they should be taxed in return for said special privilege. This argument overlooks the fact that such special privilege may be of great, or of little or no value, to the railway company, and overlooks the two-fold duty of said company—first, to furnish adequate and necessary transportation to the public, and second, to return a fair and reasonable compensation for the private capital used in the public service.

It is submitted that, while a street railway using a public street does have a special privilege therein, such privilege should not be taxed or assessed—as for paving—if (a) the exercise of such special privilege does not result in a fair and reasonable return for the use of the private capital invested (does not result in a private special benefit), or (b) if the taxing of such privilege would result in crippling the public transportation service necessary to be rendered—particularly to that percentage of the people who cannot afford to buy or use automobiles, or (c) if the taxing of such privilege would result in the poor man, riding on the street car, not using or wearing out the pavement, paying the street construction and maintenance cost for the richer and more favored citizen who by the daily use of his motor vehicle benefits by, and damages, such pavement.

In cities such as Kansas City, and in the larger cities of the country, it is a matter of public necessity—in order that the business of the city be carried on—that street railways continue to operate. In furtherance of such public necessity, speaking generally, the street railways of this country, in their present poor financial condition, should be relieved of many burdens now imposed upon them.

and particularly, relieved of paving burdens either entirely or at least to the extent that such paving is not beneficial to, or used, damaged or made necessary by, the street railway. The minimum paving relief that should be granted should be to relieve the street railway of all construction costs that would be borne by adjoining property or other agencies if no street railway existed in the street, and of all maintenance costs other than those occasioned by the street railway.

Relief has been granted to the street railway companies in some states, including Connecticut, Indiana, Iowa, Massachusetts, Montana, New Jersey, New Hampshire and Utah, by the passage of legislation removing all or the major portion of the paving cost. Various local communities throughout the country have likewise relieved the street railway companies from the paving burdens.

The trend to relieve the street railway from paving burdens and the changed condition necessitating such relief are well stated in the case of Indianapolis Street Railway Company versus City of Indianapolis, reported in *Public Utility Reports Annotated*, 1922 E, commencing at page 545. In that case the Indiana Public Service Commission held that the Indianapolis Street Railway Company had been freed from franchise and ordinance paving obligations by its acceptance of an indeterminate permit under the Indiana State Law. This state law was later broadened to relieve all street railways in the state of Indiana from paving charges.

In the above case the Indiana Public Service Commission quoted from decisions of the Rhode Island Utilities Commission and the California Commission, as follows:

“‘Throughout the country it seems to be clearly the consensus of opinion on the part of those who have made a study of the problem, that the trolley companies should be relieved of franchise-tax payments, and the obligation to pay for pavements, which are in effect an indirect tax upon the car rider.’

“The California Commission has spoken to the point on this subject as follows:

“‘The question must be answered whether, under present conditions, it is equitable and in the best interest of the city to continue such a burden on the street railway and, therefore, on the car riders.

“‘In the earlier history of street railway operations, paving clauses were inserted in the franchises in an effort to make the companies share some portion of the street railway profits with the municipality which granted the franchise. No objection could be offered to such a procedure if the old conditions still existed. They no longer exist however. The speculative profit has been entirely eliminated from street railway operation dur-

ing the last years, and it is now no longer a question of excessive profits but rather of finding the necessary revenue to pay operating expenses, depreciation and a moderate return on actual value or actual investment. In addition, the great change brought about by electrical operation, as compared with the old horse-cars, has had a large effect on this item." (Pages 565-566.)

The Indiana Public Service Commission summed up its decision in the Indianapolis Street Railway case (page 567), as follows:

"We must accept changed conditions and solve the problems of today in the light of these changes. The day of horse and mule cars is past. Street-car companies no longer have any use for an improved pathway along the line of their tracks. Passenger traffic has changed and we are all aware that it has suffered great diminution in recent years by the private automobile which not only causes a loss in revenue but impedes traffic by using the street-car tracks, and wears out the pavement, for which the city is asking the petitioner to pay.

"If this burden is to be carried by the street-car company, it must of course in turn be borne by the car riders through an increase in fares. This, to the Commission, seems unfair. This means that the citizen who lives two or three blocks away from the car line must pay for paving his own street and then contribute his part for paving the street on which the car track is located when the law places the burden on the adjacent property owner.

"It is argued that the abutting property owner should not be required to pay more than it would cost to pave the street if not occupied by street-car tracks. The Commission finds no fault with this argument and if the property is not benefited to the extent of such excess, the city should so find and defray this excess expense from the general fund.

"It is not the province of the Commission to say whether the paving between the tracks should be paid for by the abutting property owners, by the owners of vehicles or by the city out of its general fund; but it is certain that the street-car riders as a group should not be assessed for such paving and, therefore, that the ordinance should be held to be unreasonable."

Mr. Chairman, in conclusion, it is submitted that the street railway companies of the country should be relieved of paving burdens and that these burdens should be assessed and taxed against others. The different papers that have been read here tonight have thoroughly and completely discussed the agencies (other than public



utilities) that should contribute to the expense of constructing and maintaining our public streets and public highways. Paraphrasing the language of the Indiana commission in the Indianapolis Street Railway case above referred to and quoted (particularly after hearing the able papers read here tonight), it is not necessary for me as a street railway representative to say whether the paving between the tracks should be paid for by the abutting property owners, by the owners of vehicles or by the city out of its general fund; but it is certain that the street-car riders and the street railway companies should not be assessed for such paving. In the language of the Committee's report, the expense of constructing and maintaining our public streets and highways—which is largely paving expense—should be equitably (even though not so conveniently) taxed to and assessed against those people who benefit by and/or make use of improved public streets and highways. I thank you.

CHAIRMAN NORMAN: The papers are now open for general discussion, each speaker to be limited to five minutes. Please give your names for the benefit of the reporter.

EDWARD L. KELLEY (Wisconsin): Mr. Chairman, I desire to correct a statement, or rather a misunderstanding that might arise from the statement by the gentleman from Michigan with reference to the expenditure by Wisconsin of its gasoline tax. The statement was that in Wisconsin and in one other state the money was collected by the state treasurer without any direction whatever as to its expenditure. The fact is the money that is collected by the state treasurer is automatically under the law reappropriated exclusively for highway purposes. The money raised by this tax in the past has been exclusively for that purpose.

I. A. ACKER (North Dakota): I do not desire to make a speech here or to make any observations on anything that has been said, but I would like to ask a question of the gentleman who made the committee report. I am interested, as tax commissioner of North Dakota, in the taxation of motor vehicles engaged in hauling passengers and freight. Now, the railroads in my state are paying in taxes approximately eight per cent and upwards of their gross earnings. I feel that the motor-vehicle busses are not paying their fair share of taxes. For some reason the farmers of my state have thus far failed to recognize that fact.

I would like to ask your chairman if it is the consensus of opinion of the committee that such busses should pay at least the same rate of taxation that railroads pay.

MR. MARTIN: Mr. Chairman, the committee, as indicated in presenting the report, has not given as much study to the question the gentleman raises as it would like to do before expressing its opinion

finally on that subject. Putting the thing in such general terms as those in which the question was cast, I think we may say that, so far as business taxes imposed on the different classes of utilities are concerned, the rates ought to be such as to impose substantially equal burdens on the different classes of utilities, that is to say, on railroads, street railways, motor busses, and so forth. That is what the committee suggests in its report. As to the form in which those taxes should be levied, the committee suggested tentatively that although gross receipts taxes have been generally proposed by critics, if it can be done—and the committee desires more facts before expressing its judgment—a gross-net or a net income tax on the business would be an improvement, so far as equity is concerned.

While I am speaking, Mr. Chairman, may I make two independent observations. In the first place, the discussion of the report by Mr. Dougherty would suggest that the committee was charged with the problem of highway finance in general. Those were not the terms under which the committee was designated, but rather the taxation of motor vehicles and related taxes; so that the committee avoided as far as it could, without omitting any questions that were too intimately connected with the taxation of motor and related taxes, the question of whether or not bonds should be issued and the question of the distribution of the funds. That question, incidentally, has been dealt with in a thorough-going manner by a former committee, whose report we commend to the conference.

The second observation has to do with the address that was delivered so courageously by Mr. Carr. I ought to apologize for making this correction of a misapprehension on the part of Mr. Carr, because he was not designated as a speaker for this occasion until today, and he did not have a chance to study the report as made. However, the committee was rather definitely explicit in saying that those charges that were to be more equitably and conveniently imposed were to be imposed as special assessments on abutting real estate and not on other taxable property, that is, not on the public in a general sense. The committee's formulation of that proposition was that those expenses that have been made necessary by the coming of the automobile, that is to say, those expenses that are in excess of what they would probably have been in the absence of the automobile, ought to be borne by motorists, in so far as they are not more equitable and conveniently assessable against abutting real property.

MR. ACKER: Mr. Chairman, may I ask another question? Will these papers, especially the papers this evening, be available for the legislatures which meet immediately after January 1st? Will these papers be published so that we may have the benefit of them, for

the use of the legislatures right after January 1st? I suppose a great many legislatures convene after the first of January. Ours does in North Dakota. Now, it would be a wonderful thing if these papers could be published so that we could have them and use them for the legislative committees.

CHAIRMAN NORMAN: The secretary tells me that if he is not unavoidably delayed he will have these papers published in pamphlet form within the next sixty days.

M. H. HUNTER (Illinois): I happened to be on this committee although much to my sorrow I cannot take any credit for having had anything to do with the report which the chairman has submitted. Circumstances made it impossible for me to cooperate this year. Some of you may remember, however, that we had two reports on this subject before, and I happen to have been the goat in the preparation of each of those reports. I might say it is one of my regrets, and I suspect always will be, that it was impossible for me to be at Saranac Lake last year to take part in the lively discussion which I understand you had.

I do want to make two or three observations, largely in support of the report as given, and two or three of the points mentioned in the discussion following the report.

We have had considerable discussion at these conferences on the ability-to-pay principle, and somebody once or twice rather decried the fact that in the gasoline tax we were going back to the benefit principle and are not using the ability-to-pay. I think we never left the benefit principle. If it is possible to measure individual benefits in the giving of a public service, then it is perfectly correct to levy a special tax in accordance with that benefit.

I think it has been very well demonstrated—I do not need to go into it—that the gasoline tax does that; but if you want the ability-to-pay principle, you can very well justify the gasoline tax on that principle. Suppose you pay \$2000.00 for an automobile. You drive it 40,000 miles, and it has a turn-in value of say \$500.00. You get 10 miles to a gallon. You will have paid at least \$120.00 tax, and depreciation will be \$1500.00. Anybody that can take \$1500.00 depreciation is not going to growl very much about \$120.00 tax. It is the people who cannot pay \$120.00 tax that do not buy automobiles. So, it does conform to ability.

One of the gentlemen seemed very much exercised by the fact that some states are using a part of the gasoline tax for other than highways. I am not sure but what we ought to do that. I think you can find some states perhaps where an extra one-half cent on gasoline can be much more easily paid for education, than could be an increase in the tax on real estate. Now, if the motoring public is better able to pay for education than is the owner of real

estate, then it is perfectly correct. And if you happen to live in a state in which there are a lot of people coming in as summer tourists, then perhaps that is the best way to support part of your education. Let them pay part by way of the gasoline tax.

Here is where the college professor is coming in again. One of the speakers said it was not a good principle of public finance not to borrow for building roads. I think it is a very good principle of public finance to borrow only in an emergency, and too frequently we have not followed that. If you are going to build, let us say, 100 miles of road this year, and 100 miles next year, and 100 miles the next year, as far as you can see you are going to be building 100 miles of roads for the next twenty years and so on. As you are building more miles you are making charges that are going to keep up, so you will probably have that same expenditure, about—I don't know how long. Then you cease to have an emergency. You have a regularly recurring expenditure, and the best way to finance regularly recurring expenditures is on the pay-as-you-go policy. If we all would follow that we would have much less trouble in our public finance.

I want to ask just one or two questions of Mr. Ragle. His discussion reminded me of two speakers I heard at a meeting in 1921 or 1922, when we were discussing some federal tax. One of them said, "Let us abolish federal taxes, it is crushing industry." And the other said, "Let us abolish federal taxes, they are responsible for the high prices of products to the consumer." Now, which is right? About half of Mr. Ragle's discussion dwelt upon the gasoline tax falling upon the oil industry, and in the other half he talked about the gasoline tax as being on the motorists. It cannot be both. If the oil industry bears it, the motorist does not, or if the motorist bears it, the oil industry does not; so I don't know who bears the gasoline tax.

In the last part of his discussion he used rather an indefinite pronouncement. He says your iridescent bubble will burst. I don't know whose bubble it is. I don't know just to whom he referred by "your." As a matter of actual fact it is the people who bought automobiles that wanted hard roads. If we had not had automobiles we would not have the roads we have today. I have not heard many people object strenuously. As a matter of fact, if you were to give up the gasoline tax or not have the roads, which choice would they take? About the only time I can see when they are going to object to it is when we have airplanes and do not need roads.

CHAIRMAN NORMAN: Any further discussion? Permit me to express to you my appreciation of the privilege I had this evening of presiding over this distinguished body. I am now going to turn the meeting over to Professor Fairchild.

CHAIRMAN<sup>¶</sup> FAIRCHILD: Just an announcement. The members of the conference will be interested to know that there have been enrolled 420 members at the conference, representing 41 states and Canadian provinces.

I have here a letter from Mr. G. S. Carpenter, president of the Liberty Memorial Association of Kansas City, extending through me to the members of this conference a cordial invitation to visit the war memorial of the city, and offering special courtesies to any of our members who may choose to take advantage of this invitation.

It has been arranged to have present in the ante-room tomorrow morning representatives of the various railway companies, who will be there to serve your convenience by arranging for railroad transportation and making pullman reservation.

Is there any other business to come before this session?

(No response)

(Motion made to adjourn and duly seconded)

(Adjournment)

## FIFTH SESSION

WEDNESDAY, OCTOBER 22, 1930

9:30 O'CLOCK A. M.

ALFRED E. HOLCOMB, Treasurer of the National Tax Association, presiding.

CHAIRMAN HOLCOMB: The meeting will please come to order. Suggestion is made that you step up a little closer. It will be a little easier to conduct the meeting if you will come forward where we can have a little closer harmony.

The session this morning is a continuation of a trial we made last year of the discussion of some of the questions of law. We carried it out last year, but it was interfered with so that it was not regarded as a highly successful attempt. There was a demand on the part of the program committee that we continue the attempt this year, to see if there was a real desire to have some discussion of legal procedure in tax questions.

In selecting the leader of the discussion, I asked Doctor Waterman, of the University of Arkansas, Dean of the Law School, to lead us in running over a few cases that he thought would be of interest to the members. Dean Waterman is a student of the law. He was instrumental in drafting the very fine report, made four or five years ago, on Arkansas business conditions. I regard that report as a very valuable one and highly interesting. If you have not seen it I think you would be benefited by looking into that report. Knowing that he had just about established this law school I thought it was highly appropriate that we should hear from him. I therefore call upon Doctor J. S. Waterman, Dean of the Law School of the University of Arkansas, Fayetteville, Arkansas

DOCTOR J. S. WATERMAN (Arkansas): Ladies and Gentlemen: When the late Henry Adams was asked to teach ancient history at Harvard, he replied that he knew nothing about ancient history, and less about teaching, and too much about Harvard. I felt the same way when Mr. Holcomb asked me to address the National Tax Association on current tax decisions; the only difference between Mr. Adams and myself was that Mr. Adams refused the invitation.

Now, I have handed to your secretary a paper which is to be printed. The one I am delivering is merely a brief outline of that paper, or rather a brief digest; and the reason that I am delivering a digest of that paper can be traced to a remark of the late President Hadley of Yale, who invited a gentleman to address the Yale students, and this gentleman asked him how long he would speak. President Hadley replied that it was a tradition at Yale that no souls were ever saved in the Yale chapel after the first twenty minutes. I am not trying to save souls, but I hope I can keep you here.

I have not attempted to run over all the decisions. What I have done is to select a few cases which seemed important to me. To those present who think there are cases of greater importance, I trust the brevity of my speech will permit you to comment on such cases.

To me the most interesting decision since the last conference was that of the United States Supreme Court in *Farmers Loan & Trust Company versus State of Minnesota*. It has been said of that decision, I think in *Barron's Weekly*, that it is the most revolutionary decision ever rendered by the United States Supreme Court affecting death taxes. I don't think we need be frightened by the use of the word "revolutionary," because even though we may consider it a revolutionary decision, I certainly think it tends to benefit the conservative element.

## A REVIEW OF SOME RECENT LEADING TAX DECISIONS

J. S. WATERMAN

Law School, University of Arkansas

Digests of the leading tax decisions have already appeared in the *Bulletin* of the Association. I have selected only a few of these decisions for comment and do not intend to summarize the previously printed digests. I have chosen, I trust, decisions involving legal principles not discussed in a similar paper presented at the last conference. I have prepared this paper with the expectation that others will present what they consider important changes in the law of taxation during the past twelve months.

### I

The *Tax Bulletin* for February of this year contained an article reprinted from *Barron's Weekly* (January 13, 1930), the title of which is "A Body Blow to Multiple Inheritance Taxes." The decision of *Farmers Loan and Trust Co. v. State of Minnesota* (1930), 280 U. S. 204, 50 S. Ct. 98, 74 L. ed. 37, prompted the preparation

of that article. It has been said of the case that it is "the most revolutionary decision affecting death taxes ever rendered by the Supreme Court of the United States" and "that constitutional reciprocity is now substituted for the brand heretofore sought after through state legislation." (1930) 15 National Tax Association Bulletin 142.

The facts in the case roughly are these: A resident of New York owned registered and bearer coupon bonds issued by the State of Minnesota and municipalities therein. The bonds were kept in New York, where they were at the time of the death of the owner, passed under his will which was probated in New York, and were subjected to the inheritance tax of that state. Minnesota, one of the nine states in the non-reciprocal group, attempted to levy a tax on the transfer of these public securities. (1930) 16 American Bar Association Journal 174; (1930) 8 North Carolina Law Review 318; (1930) 15 Cornell Law Quarterly 457; (1930) 14 Minnesota Law Review 799.

The Minnesota court first held that the state had no power to tax property of a non-resident unless the state had jurisdiction over the property, and since public securities were like tangibles, having a situs where located, the state could not lawfully tax them since located in New York nor tax their transfer on death. *In re Taylor's Estate*, (1928) 175 Minn. 310, 219 N. W. 153. But on a re-hearing the state court said its decision had been reversed by *Silberman v. Blodgett*, (1928) 277 U. S. 1, 48 S. Ct. 410, 72 L. ed. 479, which treated public securities as choses in action. (1930) 30 Columbia Law Review 539, 541, note 9. The state court, by also relying on *Blackstone v. Miller*, (1902), 188 U. S. 189, 23 S. Ct. 277, 47 L. ed. 439, held that these choses had a situs for taxation not only at the domicile of the creditor but also in Minnesota which was the domicile of the debtor. (1928) 176 Minn. 534, 222 N. W. 528; (1929) 27 Michigan Law Review 477.

But the United States Supreme Court, in an opinion written by Justice McReynolds, definitely overruled *Blackstone v. Miller*, thus eliminating the state of the domicile of the debtor as a situs for the taxation of the transfer of these public securities and said that these securities had acquired a permanent situs for taxation in New York where located and where the owner resided. (1930) 28 Michigan Law Review 916.

Justice Stone, in a concurring opinion, objected to an implication of the majority view that the Fourteenth Amendment prohibited "double taxation," objected to deciding the constitutionality of transfer taxes by analogies drawn from the law of property taxes, and pointed out the difficulty of attempting to determine the situs of a mere legal relationship. He based his concurring opinion on an attack on *Blackstone v. Miller*.



Justice Holmes dissented, in which Justice Brandeis concurred. Justice Holmes defended the decision of *Blackstone v. Miller*, which he had rendered in 1902. This decision recognized the power of the state of the debtor's domicile to tax the transfer on death of obligations owed to non-resident creditors on the theory that the law of the state of the debtor's domicile gave the debts validity, protected them, and provided the non-resident owners means of enforcing the debts. Justice Holmes also said, in referring to "double taxation," that the Fourteenth Amendment "does not condemn everything that we may think undesirable on economic and social grounds."

Overruling *Blackstone v. Miller* seems desirable. Granting that one economic interest may have such legal relationships as to justify taxation by more than one state, it seems that the power to tax should rest on sound legal analysis. If the state of the debtor's domicile has the power to tax the transfer of the debt because its courts permit the enforcement of the duty to pay, so then should every state into which the debtor may go or in which he has property have such a power. Beale, "Jurisdiction to Tax," (1918) 32 Harvard Law Review 587, 605.

The majority opinion contains much of interest other than its actual holding. It pointed out that vast investments of wealth have been made in securities, that these securities need protection from unjust taxation, and that the trend of decisions has been toward the protection of intangibles against multiple taxation.

It also treated a transfer tax as being a tax on property rather than on the privilege to transfer or inherit, and therefore said that the power of a state to collect the transfer tax depended on its power to tax the property in question rather than the privilege of succession. Cf. Isaacs, "The Subject and Measure of Taxation," (1926) 26 Columbia Law Review 939, 946; *Plummer v. Coler* (1900), 178 U. S. 115, 20 S. Ct. 829, 44 L. ed. 998.

After treating the transfer tax as a tax on property and pointing out that a state has no power to tax property not in its jurisdiction, the court made this very significant statement: "We can find no sufficient reason for saying that they [intangibles] are not entitled to enjoy an immunity against taxation at more than one place similar to that accorded to tangibles."

The case of *Baldwin v. State of Missouri*, (1930) 281 U. S. 586, 50 S. Ct. 436, 74 L. ed. 1056, decided May 26, 1930, presents another aspect of the problem of multiple inheritance taxation of intangibles and involves types of intangibles other than public securities. In the Missouri case the deceased, a resident of Illinois, bequeathed all of her property to a resident of Illinois who was appointed sole executor. The deceased owned credits for money deposited with several banks in Missouri and also United States

coupon bonds and sundry promissory notes which were physically in Missouri. Most of the notes were executed by citizens of Missouri and the larger part were secured by liens upon lands lying therein. (1930) 16 American Bar Association Journal 580.

It will be noted that in the Minnesota case the physical evidence of the debts was at the domicile of the deceased in New York while the transfer tax in question was levied by Minnesota, the state of the debtor's domicile. In the instant case the power of Missouri to levy a transfer tax on the debts in question depended on varying grounds. The debtor bank was domiciled in Missouri; the United States bonds were physically in Missouri; the promissory notes were physically in Missouri, the makers of most of the notes were citizens of Missouri and many of the notes were secured by interests in real estate in Missouri.

Justice McReynolds also rendered the decision in the Missouri case. He said that the bank deposits, bonds, and notes did not have "a business situs" in Missouri and were properly taxable at the domicile of the deceased owner and not elsewhere.

Justice Holmes wrote a dissenting opinion, in which Justice Brandeis joined. He stated that while double taxation of intangibles was perhaps disagreeable to the owner it should be prevented by reciprocal legislation since logic, tradition, and authority conferred on Missouri the power to tax these intangibles. He objected to using the "due process of law clause" of the Fourteenth Amendment to declare the Missouri statute in question unconstitutional.

Justice Stone also dissented on the ground that since the physical evidence of the notes and bonds was in Missouri and were protected by the laws of that state the facts of the case distinguished it from the Minnesota case. He also stated that the owner of the securities could prevent double taxation by having kept his securities in the state of his domicile. In his dissenting opinion the possibility of evasion of a transfer tax to be discussed later in connection with *Moore v. Mitchell*, *infra*, was also pointed out.

It perhaps can be said, though only with qualifications, that the United States Supreme Court is accomplishing with regard to transfer taxes on intangibles by judicial decisions what legislative reciprocity attempted to realize. Perhaps it can be said that in the future intangibles can be subjected to only one transfer tax. In the case of *In re Smith's Estate*, (1930) — Iowa —, 228 N. W. 638, following the Minnesota inheritance tax case, this view was expressed. The Missouri transfer tax case would seem to suggest that the state having the power to tax the transfer of intangibles is the state of the owner's domicile. Cf. (1930) 43 Harvard Law Review 792, 794; (1930) 28 Michigan Law Review 916.

But with the question of the taxability of the transfer of intangible property which has acquired a "business situs" other than in

the state of the owner's domicile not decided in the Missouri case it is perhaps unwise to speak too positively on this matter. In the Missouri case Justice McReynolds recognized the principle that choses in action may acquire a situs for taxation other than at the domicile of owner if they become an integral part of some local business. The Missouri case merely held that mere physical presence does not establish a "business situs." (1930) 16 American Bar Association Journal 532, 534.

In addition no statement has been made by the Supreme Court as to the taxation of shares of stock by the state of incorporation on a transfer at the death of a non-resident owner. (1930) 64 United States Law Review 158, 161; (1930) 15 National Tax Association Bulletin 131, 133. Thus it is possible that the state of incorporation and also of the decedent's domicile may attempt to levy transfer taxes. Until it is more clearly settled that only one death tax on intangibles is constitutional the advocates of legislative reciprocity still have work ahead of them.

It is not the purpose of this paper to enter into a discussion of statutory changes in tax laws but it is interesting to note that New York has already made changes in its statutes affecting the transfer taxes on non-resident owners of intangibles. Sec. 249-p, Chp. 710, Laws of 1930, New York; (1930) 16 American Bar Association Journal 532, 533.

## II

The opinion of *Safe Deposit Company of Baltimore, Maryland, v. Virginia*, (1929) 280 U. S. 83, 50 S. Ct. 59, 74 L. ed. 180, 67 A. L. R. 386, was rendered a few months prior to the Minnesota inheritance tax case. The Minnesota and the Missouri cases involved the constitutionality of state inheritance tax laws while the Virginia case brings into question a property tax.

The facts of the case are these: a resident of Virginia delivered to a trust company, incorporated in Maryland and doing business there, stocks and bonds to be held in trust for his two sons, the income from the securities to accumulate and when each son reached twenty-five his share of the principal and accumulated income to be given him. The donor reserved the power of revocation but without exercising it died in 1920.

After the death of the donor the value of the trust estate was assessed for property taxes by Virginia against the trustee, as the Virginia statutes provided that the trustee should be assessed for trust estates. It is to be noted that after the death of the donor, no one in Virginia had the privilege to control or presently enjoy the trust funds or cause them to be brought into Virginia. Furthermore the holder of the legal title was not domiciled in Virginia nor were the securities located in that state. The trustee had paid

the property taxes in Maryland on the trust fund. (1930) 16 American Bar Association Journal 37.

The Virginia court held that the two sons and the administrator of the father's estate, all domiciled in Virginia, really owned the trust fund, composed of stocks and bonds, and that the taxable situs of these intangibles was in Virginia as a result of the legal fiction of *mobilia sequuntur personam*.

The majority of the United States Supreme Court held that the intangibles,—stocks and bonds,—had an actual situs in Maryland, that this situs was separate from that of the domicile of the beneficial owners, and that Virginia's attempt to tax property wholly beyond her jurisdiction violated the due process clause of the Fourteenth Amendment. In the dissent by Justice Holmes the property tax was treated as one falling on the interest of the beneficiaries. Justice Stone in his concurring opinion stated that Virginia perhaps had the power to levy a property tax against the equitable interest of the beneficiaries domiciled in Virginia but that the tax in question was an attempt to tax the securities which were in the exclusive possession and control of a non-resident trustee. (1930) 30 Columbia Law Review 539, 543; Branford, "A Review of Recent Leading Decisions," (1929) Proceedings, National Tax Association 337, 352; Beale, "Jurisdiction to Tax," *supra*, p. 619.

This case clearly decides that where the possession and legal title of a trust fund composed of corporate securities are held by a non-resident trustee, and the beneficiaries have neither the power to control nor a present right to enjoyment, the fund does not have a taxable situs in the state of the domicile of the beneficiaries. (1930) 28 Michigan Law Review 776, 777. It is uncertain what effect the present right of control by the beneficiaries would have had on the decision. (1930) 30 Harvard Law Review 668.

Certain dicta of the majority prompt speculation. The following excerpt is of interest:

"It would be unfortunate, perhaps amazing, if a legal fiction [*mobilia sequuntur personam*] originally invented to prevent personalty from escaping from just taxation, should compel us to accept the irrational view that the same securities were within two states at the same instant and because of this to uphold a double and oppressive assessment."

This and other statements in the Virginia property tax case and the later decisions in the Minnesota and Missouri inheritance cases seem authority for concluding that the Supreme Court of the United States now holds that, in general, the Fourteenth Amendment prevents "double taxation" of intangibles both under property and transfer tax laws, and that intangibles, which have in the past been

subject to the taxing power of more than one jurisdiction, will in the future be subject to the taxing power of only one.

It is not my desire to indulge in further speculation as to the effect of these three Supreme Court decisions. Many statements contained in these cases merit careful consideration and it is obvious that they will have a marked effect on the future of state taxation of intangibles.

### III

It is often said that one state will not enforce the revenue laws of another. One law journal has said that though this statement is frequently repeated in dicta, "no appellate court has squarely accepted this maxim as a rule of law, thus making its actual validity uncertain." (1930) 30 Columbia Law Review 402. See 26 R. C. L. 382.

In *Moore v. Mitchell*, (1929, C. C. A. 2d) 30 Fed. (2d) 600, 65 A. L. R. 1354, affirming (1928, S. D. N. Y.) 28 Fed. (2d) 997, the capacity of the tax collector of an Indiana county to sue in a federal district court of New York was considered. The testator of the defendant had for twenty-four years prior to death resided in the county of which the plaintiff was tax collector but had never assessed any intangibles there. The intangibles had never been in Indiana and neither the deceased nor the executor was served in Indiana. The tax collector, under a statute passed after the death of the testator authorizing him to sue for delinquent taxes owed by non-residents or their legal representatives, brought an action in a federal district court of New York to collect over nine hundred thousand dollars of delinquent personal property taxes from the executor.

The Circuit Court of Appeals held that since neither the property nor the testator was in the jurisdiction of Indiana at the time the tax was actually assessed, Indiana had no power under the due process clause of the Fourteenth Amendment to impose the tax. Judge Learned Hand, in a concurring opinion, added that as a matter of policy state courts refused to enforce the revenue laws of other states, as in the case of the penal laws of another state. He also stated with reference to whether a tax lawfully imposed in a foreign state can be collected by suit in a federal court sitting in another state that: "So far as I can find, the point has never been passed on by a federal court."

The Supreme Court of the United States also dismissed the complaint of the tax collector. It said that Indiana was powerless to give any force or effect to her tax-collecting statutes beyond her own borders, that a federal district court in New York was not to be distinguished, as concerns the legal capacity of the plaintiff to sue, from courts of New York, and therefore the Indiana county

tax collector lacked the capacity to sue in the federal district court in New York. *Moore v. Mitchell*, (1930) 281 U. S. 18, 50 S. Ct. 175, 74 L. ed. 673; (1930) 16 American Bar Association Journal 241.

The problem of the extra-territorial collection of taxes is of interest in connection with inheritance taxation. In *Blodgett v. Silberman*, *supra*, it was held that a state may levy an inheritance tax on the transfer of intangibles of a decedent domiciled in the state though the physical evidence of the intangibles is located elsewhere. Suppose that the decedent, though domiciled in Connecticut, owns no property located in that state, and leaves stocks and bonds, the evidences of which are in New York, to legatees residing in New York. If the New York courts and also the federal courts refuse to enforce the revenue laws of Connecticut then the power to tax the transfer of intangibles by the state of the domicile of the decedent is materially affected in such case, even though the taxable situs of such intangibles is at the domicile of the decedent. (1929) 29 Columbia Law Review 782.

Again, suppose that after death all intangibles are removed from the state of domicile of the testator, leaving neither property, executor nor legatees in that state. Cannot all the transfer taxes of the state be thus avoided? *Estate of Martin*, (Surr. Ct. 1930) 82 N. Y. L. J. 2242; (1930) 30 Columbia Law Review 402. The legal rule that the domicile of the testator is the taxable situs for intangibles may thus in some cases be of slight value to the state of domicile when attempting to collect a transfer tax.

If a valid assessment had been reduced to judgment in Indiana followed by a suit brought in a foreign jurisdiction on the judgment a different question would have been presented. (1929) 29 Columbia Law Review 782, 790, note 47; Goodrich, (1927 Conflict of Laws, Sec. 204.

It is obvious that as a matter of comity a state can permit officers of other jurisdictions to enforce revenue laws if it so cares. Perhaps extra-territorial collection of state inheritance taxes may be the next step in reciprocal tax legislation. (1930) 30 Columbia Law Review 782, 787.

#### IV

The Supreme Court has held that a federal court would not grant an injunction against the collection of a state tax where there was an adequate remedy at law. *Arkansas Building & Loan Assn. v. Madden*, (1899) 175 U. S. 269, 20 S. Ct. 119, 44 L. ed. 159. In *Raymond v. Chicago Union Traction Co.*, (1907) 207 U. S. 20, 28 S. Ct. 7, 52 L. ed. 78, an injunction was granted, as the court said the taxes when collected would be distributed to a number of governmental divisions which would necessitate a multiplicity of suits and that the portion of the tax distributed to the state of Illinois could not be recovered by any legal proceeding whatsoever.

A federal statute on restraining the collection of taxes reads thus: "No suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court." R. S., Sec. 3224; 26 U. S. C. A., Sec. 154. While this section perhaps does not apply to state taxes, it reveals the attitude of the federal government upon restraining the collection of taxes by injunction. See 26 U. S. C. A., p. 141, note 19; *Felland v. Wilkinson*, (1928 W. D. Wisc.) 33 Fed. (2d) 961; cf. 4 Cooley, Taxation (4th ed., 1924), Sec. 1662.

In *The Henrietta Mills v. Rutherford County, North Carolina*, (1930) 281 U. S. 121, 50 S. Ct. 270, 74 L. ed. 737, a taxpayer's remedy in a federal equity court was involved. The petitioner sought to enjoin the county from assessing its property at over sixty per cent of the true value as other property in the county was assessed at that rate. The Supreme Court of the United States affirmed the decrees of the lower courts which had dismissed the complaint. The Supreme Court, citing the Judiciary Act of 1789, said that suits in equity were not to be sustained where there was an adequate remedy at law. Unless there was some irreparable injury, the mere fact that the validity of a tax could be tested more conveniently by a bill in equity than an action at law did not justify resorting to equity. The adequate remedy at law was to pay the tax under protest and sue to recover the amount paid either in the state court or the law side of the federal court.

The petitioner contended that since the statutes of North Carolina authorized a proceeding in the state court for an injunction to restrain the collection of a tax on an illegal assessment, therefore grounds existed for invoking the equity jurisdiction of federal courts in that state. But the Supreme Court held that a state statute of a mere remedial character cannot confer the privilege to proceed in a federal equity court, even though the petitioner might have an equitable remedy in a state court.

## V

The next case to be discussed involves the taxation of public agencies conducting a type of business activity ordinarily operated by private enterprise. One of the leading cases on this point is *South Carolina v. United States*, (1905) 199 U. S. 437, 26 S. Ct. 110, 50 L. ed. 261, 4 Ann. Cas. 737, wherein South Carolina sued in the Court of Claims to recover from the federal government the amount of license taxes paid under the internal revenue act for the privilege of selling liquor through the agency of a state dispensary.

The Supreme Court refused to exempt this state agency from federal taxation because it was not an activity of a strictly governmental character and said that the exemption of state agencies from

federal taxation did not extend to those used by the state to carry on private business enterprises. The Supreme Court also stated that if the states were to extend their business activities and were to be exempt from federal taxation the revenues of the national government might be seriously crippled.

In an article in (1925) 34 Yale Law Journal 807, 828, by Cohen and Dayton on "Federal Taxation of State Activities and State Taxation of Federal Activities" it was said that the decision in *South Carolina v. United States* was inconsistent with earlier decisions and was perhaps expressly limited by *Murray v. Wilson Distilling Co.*, (1909) 213 U. S. 151, 29 S. Ct. 458, 53 L. ed. 742. This article also stated that the distinction between governmental and proprietary functions, borrowed from the field of torts, is an unsound basis for deciding this question of tax exemption in an economic society with changing concepts of the functions of government.

*North Dakota v. Olson*, (1929, C. C. A. 8th) 33 Fed. (2d) 848, involved a suit by the state to recover a capital stock tax collected by the federal government from the Bank of North Dakota, which was owned and operated by that state. This bank was created to assist state-owned agricultural enterprises but was given general banking powers and was made sole depository of state funds. See (1929) 280 U. S. 12, 50 S. Ct. 88, 74 L. ed. 594 for dismissal of appeal.

It was held by the Circuit Court of Appeals that this state agency was not exempt from federal taxation since the bank was an instrumentality of the state used to conduct business of a private rather than of a governmental character. *South Carolina v. United States* was cited for approval. It was said that since the state was divested of its sovereign character and took on that of a private citizen when it entered the banking business the state-owned bank was subject to the federal capital stock tax. (1929) 43 Harvard Law Review 329.

## VI

Suppose, however, that the federal government enters the field of private industry, does the state have the power to tax such a federal agency? This point arose in *Alabama v. United States*, (1930, C. of C.) 38 Fed. (2d) 897, and was decided against the state.

In 1916, under the war power of Congress, the erection of a plant for the manufacture of nitrate for use in munitions of war and the erection of a power plant for aid in making the nitrates were authorized. The surplus products of such plants were to be sold by the United States. The United States then erected at Muscle Shoals, Alabama, a power plant and sold its surplus power



to the Alabama Power Company. Alabama sought to recover in the Court of Claims from the United States some \$180,000 in privilege taxes, alleged to be due under an act of Alabama of 1927, imposed on those engaged in manufacturing and selling hydro-electric power in the state.

The court held that the Alabama privilege tax was imposed on an agency employed by the United States to perform a lawful function and since such an agency was immune from state taxation the state statute authorizing the tax was unconstitutional so far as it interfered with the United States government.

The court also said that:

"The means and agencies which Congress may select for the performance of its constitutional functions must necessarily vary and expand to suit the expanding social, economic and political life of the people of the country. . . . The proposition that the United States by engaging in private business ordinarily conducted by individuals thereby incurs the liability of a private individual is fallacious. . . . Under the Constitution, the United States has no authority to transact anything but public business as a governmental agency—all its acts are of a governmental character."

The majority also attempted to distinguish between the power of the federal government to tax a state agency engaged in a business normally conducted by private enterprise under *South Carolina v. United States* and the lack of power of the state to tax such a federal agency.

In a concurring opinion, it was said that the United States was not subject to the privilege tax as it was not engaged in the hydro-electric business but was merely selling surplus power produced as a result of the lawful exercise of a governmental function. It was stated that if the United States entered this business, selling to all persons who should apply, it would not be carrying out its governmental functions and therefore would be subjected to the state tax. The concurring opinion stated that the principle of *South Carolina v. United States* should be applied to activities of the United States of a non-governmental nature the same as it applies to like state activities.

## VII

Another phase of the taxation of property owned by a governmental agency but employed in competition with private industry developed in *South Dakota v. Beadle County*, (1928) 53 S. D. 609, 222 N. W. 583. South Dakota had enacted a Rural Credits Act, pursuant to a constitutional amendment, which authorized the state to lend money secured by farm land. By foreclosure of a farm

mortgage the state acquired title to a quarter-section of land in Beadle County and applied for an abatement of the property taxes, as the act provided that all property owned by the Rural Credits Board was exempt from state, county, and city taxes.

The county, a political subdivision created by the state, contended that the statutory exemption was not constitutional as the state was acting in a non-sovereign or a proprietary capacity, in competition with private business, when it entered the farm-loan business. But the court said that the people of the state could confer such powers as they saw fit upon the state, subject to the limitations of the federal constitution and that as a matter of law there was no distinction in the state between non-sovereign and sovereign capacities of the state, and therefore when the state engaged in the banking business it was acting in its governmental capacity and the land in question was lawfully exempted from the county property tax. (1929) 15 National Tax Association Bulletin 91.

From these three cases, for purposes of discussion, one may summarize roughly as follows: that a state agency engaged in private business activities is subject to federal taxation, while a similar federal agency is not subject to state taxation if engaged in selling its surplus and perhaps not subject to state taxation if lawfully engaged in the business. Also, a state agency engaged in private business is not subject to taxation by one of its own subdivisions. Cf. Van Dorn, "Government Owned Corporations" (1926), 284-288.

## VIII

Rather than attempt to cover a great variety of cases I have selected a few, which I trust will present some important principles of tax law for discussion. While the cases considered are largely from the United States Supreme Court or from the lower federal courts they involve questions of local and state rather than of federal taxation. I trust that those present will comment on other cases decided since the last tax conference which they deem worthy of consideration.

The legal problems which I have attempted to present through the medium of these cases follow: the effect of the Fourteenth Amendment on the "double taxation" of intangibles; the future need of reciprocal exemption legislation; the power of state officers to enforce revenue laws in foreign courts, both state and federal; the possible need of reciprocal legislation permitting extra-territorial enforcement of revenue laws; federal equity injunctions against illegal assessments and collections, and the taxation of government owned agencies operating what are normally private business enterprises. These six legal questions, I trust, are of interest not only

to the tax lawyer but also to the student of public finance and the tax administrator.

CHAIRMAN HOLCOMB: Gentlemen, I know that you will agree with me that the Dean has presented a line of cases that are highly interesting. The problem is, how may we profit by considering them a little further. Of course, the difficulty is, we are dealing with close questions of law. Many of us are apt to deal with what we think ought to be the law and what the court ought to have done, not what the legislature really has done and the court's attempts to construe what the legislature thought it was doing.

I think it is rather a difficult or different proposition to discuss the effect of a legal decision and not confuse it with the effect, in the tax field, of a given piece of legislation.

I suppose that the easiest way to proceed is to go down the line of these cases. The first case, of course, at once presents a name that comes to me as one who helped us last year in our start of this sort of a discussion. When you say Farmers Loan & Trust, you immediately think of Russell Bradford. I see him sitting way back there and I wonder if he would perhaps address himself to those undecided points that the Dean suggests, as to what is left with respect to the situs; what is going to happen with the "business situs," and also what is going to happen with the shares of stock which still remain in the undecided field. And, please remember that we are under pressure, as usual. We have two more papers at this session, and we have decided to ask Professor Jensen if he won't present his paper at this session, thinking that there would be time.

Of course, the attendance here this morning indicates a great interest in this subject. I am somewhat amazed to think that we can make such a success of a dry legal topic; but please bear in mind that we must hurry and therefore confine yourselves to a small compass.

Mr. Bradford, have you any suggestions with respect to these matters?

RUSSELL BRADFORD (New York): Mr. Chairman and Gentlemen of the convention: I do not know whether I have any suggestions or thoughts in respect to what the United States Supreme Court will do. I dare say no one of us knows. I tried last year to indicate in my presentation of the decisions of the courts that all great decisions wherein the Constitution of the United States is construed tend toward relativity. Now, that sounds as though I am speaking about Einstein. I mean that much more seriously than it sounds on the surface. As knowledge has pressed itself forward, new formulæ by the physicists and by the chemists have come on. They

have had their recurring and incidental effects, even in law, in ethics, in religion and in everything.

When the Supreme Court of the United States decided the Farmers Loan & Trust Company case—and, parenthetically, while counsel for that institution, I did not handle that case, so I take no pride in this decision at all—when it decided that case it really did, as I construe it, essentially revolutionize the ideas and thoughts we had about inheritance taxation.

A long time ago—I say “A long time ago,” long in my period—some twenty years ago, the Supreme Judicial Court of Massachusetts had decided, notwithstanding the decision of Blackstone against Miller had already been rendered, that municipal or state bonds of the state of Massachusetts were subject to a tax by Massachusetts, although bonds and notes of its private corporations were not subject to the tax. That stared me in the face, and it struck me as probably a reasonable theory and sound basis for a decision—that is that where the state itself had issued the bonds, or its municipalities, there is no other place in all the world that you could go to collect except into the state of Massachusetts. Why should not Massachusetts or Minnesota have authority to impose a tax upon the privilege to come in there, and come in to collect. You know, since the XIth amendment to the Constitution, you cannot sue a state except with its own consent, and it usually only consents to be sued in its own courts. Minnesota is the only place to collect. It seems to me Minnesota ought to have been allowed to impose a tax upon the privilege it granted. However, the decision is to the contrary.

I appeared in the United States Supreme Court in the Virginia case as *amicus* to the court. I took the liberty of arguing to that court that the law had always been settled in so far as real estate was concerned; that as to tangible personalty, notwithstanding the old doctrine of “*mobilia sequuntur personam*,” that is, that movables follow the domicile of the owner, they had held many years ago in Union Refrigerator Transit Company versus Kentucky that tangible personalty could be taxed only at the situs and not at the domicile of the owner. There followed in 1925 in Frick versus Pennsylvania, the holding, for transfer excises, inheritance taxes, death duties, that a tax could not be imposed upon tangible personalty except in the state in which it was physically located, in other words at its physical situs. I then suggested that the law having been settled as to real property and as to tangible personalty, both in respect to excises as well as taxes—I mean direct taxes as distinguished from excises—that the law ought to be settled as to intangibles. They had laid down the doctrine in Blodgett versus Silberman that intangibles did follow the domicile of the owner and should be taxed there. I took the liberty of saying to the court

in that case that it ought to decide, as to so much of the wealth of this country now in intangibles, to give that one situs and fix it at one place or the other, and I did not care which place it was. I took a little pride in it because when the Farmers Loan & Trust Company decision was rendered, some of that thought was carried into the decision, although it was not referred to in the Safe Deposit Trust Company of Maryland versus State of Virginia.

Now, what is going to be done about stocks? Much of our wealth is in stocks, that is, before the panic, as much was in stocks as in bonds. I don't know how much money is invested in stocks at this time. That is undecided. On the other hand, one of the lower courts in Kentucky, about two or three weeks ago, sustained an injunction against the collection of a Kentucky tax on stocks of a Kentucky corporation owned by a non-resident decedent of Kentucky. In other words, it said the law was controlled by the decision in Farmers Loan & Trust Company versus Minnesota and Baldwin versus Missouri. I have a case pending now in the state of Ohio in the matter of Klein. It is in the court of Common Pleas there. Of course we naturally lost it in the lower Probate Court there, and I brought it purposely to have the United States Supreme Court say "Do you mean by the word 'intangibles' the broad, comprehensive term 'intangible stocks'?" "If you do mean stocks, then you have the reverse of what you indirectly said in Frick versus Pennsylvania," because in Frick versus Pennsylvania, with the same court sitting now with the exception, I think, of but one man, Justice Roberts, the Supreme Court there had held that the state of Pennsylvania, the state of domicile of Mr. Henry Frick, could impose a tax upon stocks of a New York corporation, but only after deducting from the value upon which the tax assessment fastened, the tax that had to be paid to New York, because they said New York had a lien on it before it could be brought into the state of Pennsylvania by the executors of the estate of Henry Frick.

Now, by saying that, the Supreme Court indirectly said, "Yes, New York, you can tax it because you have a lien." It did not say that Pennsylvania could tax it. Now, when Mr. Justice McReynolds uses the word "intangibles" he may be excluding stocks. I always thought stocks were intangibles, as much as are choses-in-action or open accounts on books. I carried stocks in my mind as intangibles. But, again, words are only relative. They mean one thing to one and something else to another. Now, "intangibles" to me may include stocks, but the Supreme Court of the United States may exclude stocks.

CHAIRMAN HOLCOMBE: Now, let us see what we can do. Here is the poor old case that was thrown into the discard. I believe

that was an Illinois case, *Blackstone versus Miller*. I wonder if anybody is here who might say something about that. Mr. Cushing, have you any regrets or bemoanings over the fate of *Blackstone versus Miller*?

R. B. CUSHING (Illinois): I was very glad to see that decision in the *Farmers Loan & Trust Company* case. We are waiting for the United States Supreme Court to decide the question as to whether stocks are intangibles or in the same category.

CHAIRMAN HOLCOMB: You are not willing to hazard a guess? We are friendly, if you will guess at it.

MR. CUSHING: I am not going to guess. I have one thought that is very interesting in connection with the taxation by one government body of property in another. It is with respect to our sanitary district canal, that takes Lake Michigan water and passes it down the river into the Mississippi ultimately. That canal extends beyond Cooke County and Will County. Will County taxes the prism of that canal and the abutting land as a taxable value, and the Illinois supreme court sustains that as property that is taxable to the sanitary district.

CHAIRMAN HOLCOMB: Then we have another case involving Missouri, *Baldwin versus Missouri*, and you know there are a lot of Missouri lawyers here. I do not see one at this moment, but if any one of them here wishes to say something on that, he may rise.

(No response)

CHAIRMAN HOLCOMB (continuing): I do see before me, I think, a gentleman highly interested in *Safe Deposit Company versus Virginia*—Mr. Morrissett. Mr. Morrissett must be here. I wonder if he has any suggestions. Is Mr. Morrissett here?

(No response)

CHAIRMAN HOLCOMB: I am not attempting to suggest the speakers. Anybody can speak; but I am trying to hurry.

*Moore versus Mitchell* involved the state of Indiana. I don't know but what Mr. Zoercher may have some observations about that situation. It is a little difficult to call upon anyone to deal with a technical subject.

PHILIP ZOERCHER (Indiana): When was that decided?

MR. WATERMAN: Either 1929 or 1930.

CHAIRMAN HOLCOMB: That is on the power to enforce the revenue laws in another state. Of course, that is a very interesting thing, and if Blodgett were here he would tell us something about this.

MR. ZOERCHER: Never heard about it.

CHAIRMAN HOLCOMB: Mr. Cole is just coming into the hall. You might as well continue and step right up here, Mr. Cole, if you will. We are just about to discuss the question of the jurisdiction of one state to collect taxes of another state. We are talking about Moore versus Mitchell, and I am reminded of the Connecticut case which is now going through, which involved New York. You are so familiar with it that I thought possibly you would favor us.

SETH T. COLE (New York): Has the Martin case been discussed at all?

CHAIRMAN HOLCOMB: It has been discussed in the paper. We are now talking about Moore versus Mitchell. Will you step up here. It is difficult to be heard down in the end of the room. The Martin case has not been discussed.

SETH T. COLE: Mr. Chairman, Ladies and Gentlemen: I am at somewhat of a disadvantage, having been in attendance at a committee meeting, and not having had the benefit of hearing the paper which I am expected to discuss, but I can say a word about the Martin case, so that you may know what the situation is. A decision is expected in the reasonably near future.

Mrs. Martin was a resident of the state of Connecticut, and that was her domicile, unquestioned and no dispute about it. At the time of her death she conducted an antique shop in the state of Connecticut. She had money on deposit in a Connecticut savings bank. She owned some tangible personal property situated in the state of New York, of minor value, and she owned some intangibles in the nature of stocks and bonds, which were kept in the state of New York.

Under the decision of the United States Supreme Court in the case of Blodgett versus Silberman, Connecticut had the undoubted right to impose an inheritance tax upon all of her intangible personal property, in addition to the tangible personal property which was situated in Connecticut. But immediately after her death her executor sent a moving van over to Connecticut, loaded the contents of the antique shop into it, and brought the contents into New York. At the same time the executor withdrew the deposit in the Connecticut bank, brought the money over to New York, and then made application to the New York Probate Court for the probate of her will, without making any similar application to the courts of Connecticut, and asked the New York Probate Court to decree the distribution of all the assets of her estate, without regard to the rights of the state of Connecticut to its inheritance tax.

If it is possible for an estate to adopt that procedure, it becomes

evident at once, aside from a consideration to which I shall later refer, that it will be practically impossible to maintain an adequate system of inheritance taxation in this country; and reciprocity laws, for which we have conducted so successfully a campaign over a period of years, will have an effect directly adverse to that which was intended, because, in this case for example, New York has undertaken to forego the taxation of the intangibles of Mrs. Martin because Connecticut on its part undertakes not to tax the intangibles of New York residents, that compact being based very plainly upon the proposition that the state of domicile should not alone have the right to impose an inheritance tax but should also have the power to enforce the tax.

Where an estate is subject to the federal estate tax, and the 80 per cent credit, it matters little, of course, whether the state taxes be paid to the state of domicile or to some other state, and therefore the incentive to dodge the tax is missing. But, in estates of less than \$100,000 a very real problem is presented, and should the federal estate tax be repealed, why, of course, the same problem would apply to all estates regardless of their size.

The state of Connecticut came into the New York courts and objected to the distribution of the property and asked that the assets be returned to Connecticut for administration there, in order that Connecticut might collect its taxes.

Following the decision of the New York courts in the case of *Colorado versus Harbeck*, in which it was held that Colorado could not sue an executor and beneficiaries in New York for a Colorado inheritance tax, the Surrogate's Court held that Connecticut could not be heard in the Martin case. An appeal was taken to the Appellate Division, the secondary court, and the Appellate Division affirmed, and the case is now before the Court of Appeals in our state. The decision is undoubtedly of very great interest throughout the nation, and New York, Massachusetts, Maryland and New Jersey have all joined in presenting a brief, which I prepared, to the Court of Appeals, asking that Connecticut be granted the relief which it seeks.

CHAIRMAN HOLCOMB: That is a very interesting discussion of that particular line of cases. Now then, we have this question of exhausting the relief in the administrative field before you have a shot at the courts. That is the North Carolina case. If Mr. Maxwell were here, perhaps he would tell us something about that.

(No response)

CHAIRMAN HOLCOMB: Possibly we can pass over that case. It is a peculiar doctrine but it is interesting at least to have the court tell us exactly what the limitations are on appeal in the federal court.



Now, we have that group of cases dealing with the power of the taxation of agencies, of the nation by the state, and of the state by the nation. There the inheritance-tax law was involved. Is Mr. Baker here? Perhaps he would know something about that case. Is there somebody from Alabama or South Dakota here? I saw Judge Baer here, but he must have escaped. Judge Baer does not now seem to be here. By the way, the Dean suggested that the Supreme Court of the United States had affirmed that. That is not quite so. The old phrase "certiorari denied" is all we have in that case, and that means anything you want to have it mean. To my knowledge it has never been defined. I believe Justice Hughes in his lectures before Columbia did discuss that. I always intended to read them with that end in view. I know of another case that is involved in that and that is the recent Oklahoma three-judge decision on the sale of gasoline for use by an airway company that was interstate in character. Is Mr. Latting here, or Mr. Deardorff? Judge Vaughan is another. He is interested in the surplus trading case. I remember that. That is a sticker for the Supreme Court. You might tell us what they are going to do with that.

GEORGE VAUGHAN (Arkansas): They have already done it. The surplus trading case was decided on the 2nd of June, decided in favor of the taxpayer, and it was a surprise, if we judged what the law would be by what the Supreme Court had previously uttered. We are at sea somewhat.

The Dean has covered the field of these five or six cases very thoroughly. I just want to address myself in a very brief manner to a few general remarks in connection with what the presiding officer indicated, that we are not to speak as to what the law ought to be but rather as to what the law is. A great many of us are mistaken as to what the law is. We thought the law of Blackstone versus Miller was the law until the Supreme Court changed its mind. And we thought we knew what the law was on the taxation of national banks until after 40 or 50 years a new interpretation was obtained.

I think it behooves us as students of taxation to go further than what the surface of the law reads and find out what was the legislative intent, with due consideration of what is right and proper, and if we do that we will soon get these matters settled.

Now, I believe the Dean in the leading paper made a general conclusion or summary that the power of the domiciliary estate for the transfer of a transfer tax has been fully exploded, and I think Mr. Bradford concurred substantially in that proposition.

Now, I do not believe that the idea of so-called multiple taxation is entirely indefensible. While I think it is unjust to have multiple taxation if it can be avoided, in view of the organization of our

government as a federation of states, and the unavoidable interrelations, affiliations and transactions, a certain measure of duplicate burden cannot be avoided. Certainly I feel that the state of domicile of a corporation should have a right to tax the value of the stock transfer, wherever the owner may live. That point I believe has not been thoroughly explored. That we understand to be the law now. On the other hand, the state of the residence of the holder of that stock for other reasons has a certain right.

Now, the great problem to me would be to adjust between the competing states, to avoid duplicate taxation by some system that has never been invented, yet that is workable. Reciprocity would cover it if we could attain that, so as to collect one tax and distribute the benefit equitably between the competing states.

Now, another point touched on, the extra-territorial power of enforcing revenue laws. We have, all of us, understood the idea of the power of comity between states and nations. It goes a long way in the conflict of law. The idea of comity is given considerable weight. Why should not that idea of comity be carried to a relationship that is more vital than anything else, and that is to the sustaining of respective governments. It seems to me that the law ought to be that a state that has a just claim against one of its citizens or taxpayers, due it, ought to be able, if that taxpayer undertakes to dodge the payment of that claim by going to another state to come in as a welcome guest in the other state, through comity, and that that second state should assist at least in enforcing what the law was and assist in imposing a tax if that is just:

In the compromises, and so on, made between the states and the federal government, it is interesting to note that there is pending in California now an amendment, among the twenty-seven amendments I believe proposed to be voted on, which bears upon the power of the state to impose a tax on toll bridges. A compromise is sought whereby the localities or the counties or the subdivisions of the state might secure a proper contribution from these states that are taxing through the tolls their citizens—by virtue of a compromise between the county and the state. As Dean Waterman has so clearly pointed out though, it is a different proposition when you are dealing with a state and its subdivisions of governmental units, from the proposition of the state dealing with the federal government.

Repeating, I think that it is very appropriate for us to state what the law should be in these connections and to invoke the assistance of equity and justice and thereby secure a more just and equitable interpretation of difficult features of our statutes. Thank you.

CHAIRMAN HOLCOMB: I just want to say that the remedy for that is to apply to the legislature, and that leads me to call attention

to my contribution to the cover of the program. I believe if the last few lines of that quotation were carried out we should have less question as to what the law is, if the legislature stated in clear terms what is meant. Then we should not blame the court.

Now is there anyone else who wishes to make any contribution to this interesting subject?

W. T. McCONNELL (Oklahoma): As to the status of the gasoline tax law in Oklahoma, it is rather up in the air. The federal judges have tentatively held, I believe, that a state may not impose a tax upon gasoline used in airplane transportation, as being a tax on interstate commerce. However, they have not definitely decided upon that, and there will be a hearing some time in the future upon the real merits of the case.

As to inheritance taxes, the question submitted here by the Dean is very interesting to me.

I had a case which presented a peculiar problem, that I should like to have decided. Montfort Jones, a former resident of the state of Oklahoma, accumulated quite a fortune from banking business in the state. At the time of his death, I believe in 1927, he left in his estate municipal bonds of the state of Oklahoma, Liberty bonds of the United States and bonds of Holmes County, Mississippi, on deposit in a bank of which he was vice-president, in partnership with his brother, admittedly having a taxable situs in the state, about two million dollars' worth of these bonds. The statement of facts shows that there was no intention of removing these bonds at any time; that they were kept there as an investment and for the purpose of collecting the interest. He died a resident of the District of Columbia. Now, this case was instituted in the County Court of Creek County, Oklahoma, where ancillary proceedings were had. The executors, his brothers, or one of them at least, was a resident of the state of Oklahoma. These bonds were inventoried with the real property and other personal property that was situated within the state. We attempted to collect about \$58,000 transfer taxes. The bank holding these bonds gave notice under the statute that they intended to transfer them to the executor. The case was instituted before the decision in *Blodgett versus Silberman*, and of course we relied largely upon the decisions that had gone before, but the violation of the Fourteenth Amendment—due process of law—was not pleaded as a defense, and the decision turned upon the construction of the Oklahoma statute as to what was tangible and what was intangible. The court decided that the legislature had not defined this property as tangible but had defined it as intangible. We took objections to that decision, filed a motion for rehearing, which was promptly overruled, and thinking that perhaps the court had not given due consideration to the matter, we

filed a second petition for rehearing and asked for oral argument on that petition, which was orally argued last week. The question has occurred to me, who has a right to say that a thing is tangible or intangible? May the state not declare what is property and subject to its jurisdiction or subject to taxation within its jurisdiction, when that thing is located there? The chose-in-action under these bonds is located in Oklahoma. The bonds were physically present there and they were there for safe keeping and for the purpose of collecting the interest from the state or municipalities. The executor lived there and the heirs or part of them lived in that state. Now then, that is one question. The Fourteenth Amendment was originally intended to provide equality between the states in the treatment of the citizens of the different states. Now, in the present application, it takes away from the state the power to declare what within its jurisdiction is property or not property. How are they going to obtain these bonds under our statute, which provides that they cannot be transferred without the consent of the state? The same thing would apply if it were shares of stock located within that state, the domestic corporation being within that state—the issuance of the shares of stock. My idea is that the continuation of the encroachment, or rather the broadening of the meaning of the Fourteenth Amendment—due process of law—will destroy the power of the state to say what is property or what is not property within the state, if it is to be left entirely to some other jurisdiction outside of the state. I am not saying what the court ought to do in this particular case, but it presents a problem. If they can say that bonds of a municipality of the State of Oklahoma, or any other state, which has the right at the time of issuance of the bond to exempt it from taxation or to include it for taxation, and has the same right to say that shares of stock issued by a domestic corporation may not be subject to the laws of the state which issues the stock, we are on dangerous ground, and we ought to give consideration to these things.

MARTIN SAXE (New York): I just want to say one word to emphasize the very excellent point which Dean Waterman made in indicating the trend of the United States Supreme Court in considering particularly tax questions in the light of economics. Now, we know that for years the Supreme Court has indicated that laws shall be construed in the light of their practical effect and operation, their necessary effect and operation. A statute may be perfectly good on its face, yet if in its necessary operation and effect it is unconstitutional, the court will so declare it. Now likewise they are pointing out that laws, particularly tax laws, must be considered in the light of economic law, and I think it is a very welcome sign, and I am happy that Dean Waterman has pointed out the effect of the Minnesota and Missouri decisions.

CHAIRMAN HOLCOMB: The Dean wonders whether there have been any cases before the delegates involving taxation, inheritance tax or otherwise, of so-called investment trusts. I do not happen to know of any case myself, but if you think of any, let us hear from you.

HARVEY WALKER (Ohio): Mr. Chairman, the discussion here this morning, particularly as respects inheritance taxes, reminds me very much of the excellent suggestion made by Professor Leland yesterday, that we may soon come to a point where we will have to turn over to the federal government the problem of collecting and administering inheritance taxes. This problem of reciprocity and comity has reached such a perplexing point of difficulty that that may be one way out. One of the speakers suggested we should have to find some way that had not yet been tried, and that offers some possibilities, I should think. The difficulties of the gentleman from Connecticut in having the assets removed to New York, and thereby removing them from tax situs in Connecticut, might, it seems to me, be reached by some agreement between the states that they would prevent the removal of taxable assets before the tax had been collected.

Only one other point, and that is in connection with this relationship between the states and the federal government on questions of taxation of governmental enterprises and non-governmental enterprises. There are no new points established, so far as I can see, by the recent cases cited by Dean Waterman, but there is one point that it seems to me needs emphasis, and that is that the United States Court accepts the responsibility for deciding not only whether the federal government may be taxed — and, as he has indicated, the Supreme Court has decided it may not be taxed under any circumstances, regardless of type of activity in which it engages — but the same court decides whether a particular enterprise carried on by a state is or is not governmental, and if it happens to decide that it is not governmental, then it becomes subject to whatever taxes are imposed by the federal government. It seems to me that the federal government is in a position of having an undue advantage in this connection. And, while we are discussing what the law is and not what it should be, I think this particular group is in a position to influence what the law shall be, so far as it can be effected by constitutional and legislative changes, and it might be well to keep that in mind.

CHAIRMAN HOLCOMB: The Dean left one other thought. He said, what is the bearing of this on the purposes and aims of the reciprocity movement? And the slight discussion we have had here would indicate that we need the continuation of our reciprocity committee. The chairman has just entered the hall, and

even at this late hour, with two other papers, we should just like to hear a word from Senator Edmonds of Pennsylvania.

FRANKLIN S. EDMONDS (Pennsylvania): I am sorry I missed the paper and I am sorry I missed the discussion. Our committee was just meeting. We met at 8 o'clock in order to get our work done and conclude it by 10:30. May I ask, sir, that you allow me to reserve my discussion until tomorrow evening, when the report of the committee will be presented, and at that time we hope to have the advantage of the suggestions made from the floor here that we can incorporate in the report.

CHAIRMAN HOLCOMB: If anyone thinks of anything of extreme importance on this phase of the program we shall be glad to hear from him.

WALTER J. MATTISON (Wisconsin): May I just make at this time a very brief report on the cases that were discussed last year by Doctor Ralph Jones, in which he analyzed the four cases that arose in the state of Wisconsin, and which were pending before the courts of the state of Wisconsin at that time.

Three of the cases have been decided. You recall Doctor Jones' discussion was on the apportionment fraction, and he discussed the Buick Motor case, the Palmolive case, the Burroughs Adding Machine case, and the Diamond Match Company case. The Diamond Match Company case was settled out of court. The Buick Motor Company case, you will recall, involved the apportionment of income to the manufacturing concern and to the sales organization, in the face of a contract which existed between the General Motors Company and its subsidiary, the Buick Motor Company, under which the Buick Motor Company agreed to sell a quarter of a billion dollars' worth of Buick cars all over the world for \$2500 a year. The tax commission of Wisconsin went behind that contract and treated the Buick Company as though it were an ordinary independent sales organization and assessed and levied an income tax on the income which it would have derived had it been an independent sales organization. In that case the District Court for the Eastern District of Wisconsin sustained the position of the tax commission, and that case is now on appeal in the Circuit Court of Appeals in Chicago.

On the question of the Burroughs Adding Machine Company, which many of you asked me about after the discussion, that case went before the court. It was an equity case—an injunction—and the court said that the Wisconsin Tax Commission had a right to demand of the Burroughs Adding Machine subsidiary a consolidated return. That concern was the only one within the jurisdiction of the Wisconsin Tax Commission that could give that return,

and inasmuch as it failed to give such a return it had no standing in a court of equity, and for that reason the doomage assessment which the Wisconsin Tax Commission imposed upon the Burroughs Adding Machine Company was sustained—purely on that ground; but the court in discussing the case said that the tax commission plainly had the right to go back of this inter-company contract and assess the corporation on its true income.

The Palmolive case was not handled by me. It was handled by the Attorney General's office, in the Western District, and the District Court in that case, following the Buick Motor case, held that they had a right to go behind this inter-company relationship and assess the true net income that the subsidiary earned within the taxing jurisdiction. I thank you.

CHAIRMAN HOLCOMB: You represented the state?

MR. MATTISON: The Burroughs Adding Machine Company and the Buick Motor Company cases were injunctions against the city of Milwaukee. I handled those two cases for the city of Milwaukee. The Palmolive case, although arising in the city of Milwaukee, was an action brought against the tax commission, and that was handled by the Attorney General's office.

Mr. Chairman, may I add this, too? A gentleman from North Dakota asked yesterday whether the reports would be available for presentation to the legislature. Might I say that not only is that a wonderful use, but the very keen analyses that Doctor Jones gave in his paper last year on these cases were used by myself before the court to very great advantage. That is one use that can be made of papers that are read before this organization, and it is a use that should be encouraged.

CHAIRMAN HOLCOMB: I believe we have had a very useful session. It is wonderful to me to see so many stay through this. But, I believe we ought to pass on and take up the next paper, which, as you know, is a very interesting one, and one we have never discussed, as I recall, at any particular conference. It is a subject that presents itself immediately to the ordinary mind—if a man pays an income tax shouldn't he have some credit for his property tax? That is the obvious reaction you get from the business man. Isn't it fair? I am interested myself in what the doctor is going to tell us on that subject. Doctor Simpson, as you know, has long been connected with the Institute for Economic Research. He has made some valuable contributions to the subject, notably the recent survey of the city of Chicago real-estate situation. Doctor Simpson, will you favor us at this time?

## THE EFFECT OF A PROPERTY TAX OFF-SET UNDER AN INCOME TAX

HERBERT D. SIMPSON

Professor of Economics, Northwestern University

The problem of a property tax off-set under an income tax has been with us for nineteen years. Like many other governmental problems, it hails from an original habitat in the state of Wisconsin, where it was adopted in connection with the income tax of 1911. And like most tax problems, it grew out of a particular set of circumstances prevailing at the time. In Wisconsin, the advocates of the income tax had based their campaign largely on a plea for substitution of an income tax in place of the personal property tax. The adoption of the tax was accompanied, therefore, by the exemption of large classes of personal property entirely and the privilege of applying the taxes paid on other classes of personal property against any income taxes that might be due. This off-set privilege was continued in Wisconsin until 1925.

Various forms of property tax off-sets — personal property, tangible property, personal and real property taxes—have been incorporated in income tax legislation in North Dakota, Missouri, Mississippi, Oregon, Washington, and California. The problem has been an acute issue in California for the past two years, in connection with the reorganization under way there. In Illinois, the real estate groups and the farmers' organizations have urged provision for a property tax off-set in all of the recent movements for the adoption of a state income tax. In this demand the farmers' organizations have been particularly insistent, urging that the farmer at least ought to have whatever relief could be afforded by allowing him to apply his heavy general property tax against any income tax levied.

Against the off-set it has been urged that such off-set would greatly reduce the revenue yield of an income tax, various authorities in Illinois estimating this reduction to be as high as 75% to 80% of total yield. It has also been urged that such an off-set would practically take farm and rural taxpayers out of the range of any income tax and would make the income tax entirely an urban tax.

In view of these wide differences of opinion, a committee of the Chicago Real Estate Board asked us some time ago to investigate the possibility of getting such actual facts as would make it possible to determine definitely what the effect of such an off-set would be upon the yield of an income tax and upon the distribution of burdens under the tax. Unfortunately the factors upon which any definite answer to these questions depends are extremely elusive.



These factors would include the distribution of property holdings among individuals and classes, the distribution of income, the present actual rates of property taxation at the time the problem is considered, the prospective income taxes that various individuals and classes would pay under the type of income tax contemplated, the amount of revenue which such an income tax would yield, and the amount by which this revenue would either decrease present property taxes or prevent a potential increase in future property taxes.

We found that accurate data on these factors could not be secured in Illinois except at a prohibitive cost of time and money. We did, however, attempt to secure similar data in Wisconsin, where we had the advantage of a state income tax in operation and the privilege of access to the returns, and where we were assured of every cooperation on the part of tax officials. It is the result of this attempt that I shall present briefly now.

We selected Dane County, in which Madison, the State Capital, is situated, because it represents a diversified group of industries and occupations, both rural and urban, and because it represents a per-capita wealth and income somewhat above the average for the state and therefore probably more closely approximating the conditions in Illinois and in other more industrialized sections. We have analyzed the detailed situation of 5086 taxpayers—their property holdings, their income, their actual property taxes and income taxes paid in 1928, and have worked out what their exact situation would be under three different types of tax systems, namely:

- I. A straight property tax.
- II. A property tax combined with an income tax, without off-set.
- III. A property tax combined with an income tax with property tax off-set.

We have assumed that the same amount of revenue was to be raised under each alternative, this being the amount of revenue that was actually paid by these 5086 taxpayers in 1928. The problem then becomes: how differently would the burden of a given amount of taxes rest on these 5086 taxpayers under the three alternative forms of raising the revenue?

We have assumed property tax rates at the average rate throughout Dane County, which was approximately 2% on full value, and have assumed the Wisconsin income tax. It will be noted, of course, that this deals entirely with individual incomes, under a personal income tax, our analysis of similar corporate data not having got far enough along to warrant presenting any results.

But here are our results thus far, for individual incomes under a personal income tax, first, with regard to the yield; second, with regard to the distribution of burdens.

## I. YIELD

With regard to the yield, we may offer three results:

1st. The effect of incorporating a property tax off-set in the income tax is to reduce the yield of the income tax 49%.

2nd. The adoption of an income tax without off-set would, in the situation of these 5086 taxpayers, make it possible to reduce the property tax rates by 14%; that is, to bring a property tax rate of 20 mills down to approximately 17 mills.

3rd. The adoption of income tax with property tax off-set would make it possible to reduce property tax rates only 7%, or from 20 mills to 18½ mills.

## II. DISTRIBUTION OF BURDEN

With regard to distribution of burden, the story can best be told from the chart before you.

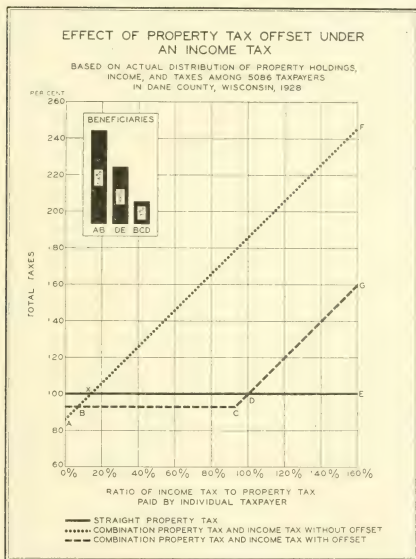
The figures at the left represent the total taxes paid by any individual or group, expressed in percentage of his property taxes. That is, the property taxes he pays, or would pay, if all revenue were raised through property taxation, are taken as 100%; and the taxes he would pay under alternative forms of taxation are indicated as percentages of this base. The figures at the bottom of the chart represent the ratio of *the income tax one would pay* under such an income tax as that in Wisconsin to the property taxes he does pay. It becomes necessary to use these ratios, because the results of an income tax with or without off-set depend not on the absolute amount of property one owns or the absolute amount of income he receives, but on the *amount of his income relative to his property holdings*. We will make this clear by actual calculation in a moment.

The three lines represent the effects of the three types of taxes we are considering. The heavy horizontal line assumes that all revenue is raised through a general property tax, and the amount of tax each one pays under that system is taken as 100%. The dotted line (AF) represents the effect of an income tax without off-set; the broken line (BCG) the effect of an income tax with property tax off-set.

The chart thus becomes a kind of horoscope, in which all you have to do is to locate yourself along that base line, according to the relative degrees in which you are blessed with property and income, and then read up the chart to the points at which you intersect the three designated lines. The point at which you intersect each one will tell exactly how you individually would be affected by the adoption of a straight income tax, in one case, or an income tax with property off-set in the other, or by a continuance of the general property tax—assuming all the time that you live in Dane County, Wisconsin, or in some equally happy location.

Let us take two or three concrete illustrations.

(1) Suppose you own property, either a large amount or small, but that you are making no net income—for various reasons, which it will serve no useful purpose now to enumerate. You are situated at 0%. Under a general property tax you pay, we will say, \$100 on your property. Under an income tax without off-set, you pay



no income tax, and you get the full benefit of the reduction in property taxes brought about by those who do pay income taxes, which brings your total tax down to A, or \$86.00. Under an income tax with off-set, you pay no income tax yourself and make no use of the off-set, but the diminished revenue from those who do avail themselves of the off-set lessens the relief you get in your property tax, and brings your tax down only to \$93.00.

Now, if that zero line sounds too hypothetical or theoretical, let me remind you that a large proportion of the farmers in Illinois and, under any accurate form of accounting, probably a majority of the farmers of the United States are in that situation—are sitting right on that zero line. For them, an income tax would be a blessing; an income tax with off-set would be better than none; a property tax is the worst kind of tax they can have.

(2) Suppose you own \$50,000 of property and have an income of approximately \$7100, paying property taxes of \$1000 and an income tax of \$70; that is, your income tax is 7% of your property tax. Go out on the base line to 7% and up to B. It is immaterial to you whether the income tax permits off-set or not; for under an income tax without off-set your property tax comes down to \$86.00 (for every \$100 previously paid), which, with your income tax of \$7.00, makes a total of \$93.00. With an off-set privilege, you are able to off-set your entire income tax, but your property tax is reduced only \$7.00, making your total tax still \$93.00. In short, anywhere up to the point where one's income tax is 7% of his property tax, one is located along the line AB, where minimum tax burdens would be secured by the adoption of an income tax without off-set.

(3) But if one has property to the amount of \$50,000, an income of around \$11,200, and pays property taxes of \$1,000 and an income tax of \$200, he is situated at 20% on the base line. An income tax without off-set will raise his total taxes to 106%, an increase of 6%; an income tax with off-set will reduce them to 93%, a decrease of 7%. And so on, to the point where one's income tax is 100% of his property taxes, at point D. But beyond that point, those who, on account of either high incomes or small property holdings, are so situated that their income taxes will be in excess of 100% of their property taxes, will secure minimum tax burdens through a continuance of the property tax, with no income tax of any form.

This is the horoscope, for each one according to his position in the scale of property and income. It indicates three groups of taxpayers:

Group AB, who will benefit through a straight income tax with no off-set.

Group BCD, who will benefit from an income tax with property tax off-set.

Group DE, who will benefit from continuance of the general property tax.

But there are more important aspects than merely these horoscopic groupings. One of these is the relative number of taxpayers in these different groups; the other is the composition of each group.

Group AB contains 54% of our total number of taxpayers, Group BCD 13%, and Group DE 33%. The explanation of the large number in Group AB is the wide distribution of property ownership—one of the things we are proud of in this country and are anxious to encourage. But this means that on these 54%, the general property tax rests very heavily in relation to any measure of tax-paying ability. It means that to these 54% an income tax would be a blessing, because, having small incomes, the additional tax imposed in the form of an income tax is *more than off-set* by the relief afforded through reduction of the property tax rates; so that for these 54%, the adoption of an income tax means a reduction of from 7 to 14% in their total tax burdens. Fifty-four out of every one hundred taxpayers should vote enthusiastically for a state income tax.

Should they also demand a property tax off-set under the income tax? They should not; and the arithmetic of why they should not is so simple that 54% of the taxpayers should be able to understand it. Small-income classes but property-owning classes, would have so little income taxes to off-set that the value of the off-set to them is less than the reduction of property taxes that would be made possible if no off-set were permitted. Any reduction of property taxes is more important to them than the little use they are in position to make of an off-set against an income tax.

The explanation of the comparatively large number in Group DE, those who would benefit from a continuance of the straight property tax, is the converse of the above; that is, that just as property ownership is characteristic of the smallest income classes, including even the laboring classes, property ownership is *not* characteristic of the clerical, salaried and professional classes, including even the high-salaried managerial and executive groups in this class. This fact is probably due in part to the greater mobility of these classes, and in part to the difficulties of maintaining customary standards of living among these classes under the high price levels prevailing throughout the past decade. Since they do, however, secure incomes that expose them to substantial income taxes, the ownership of whatever property they do possess makes the off-set a valuable privilege; so that while the general property tax imposes the least burden, it is still true that an income tax with a property tax off-set will impose a smaller burden than an income tax without an off-set.

The explanation of the small number in Group BC, the off-set beneficiaries, lies in the qualifications necessary for admission to that group. To get into that class, one must have an income that exposes him to a substantial tax, in order to have something to off-set; and he must own sufficient property in order to off-set it. And while there are many people possessed of property, on the one

hand, and a considerable number who receive substantial incomes, on the other, there are few who are blessed with both, namely 13 out of every 100, and they make up the off-set class.

So much for the number in these groups. But more important still is the composition of these groups.

In the AB group (Income Tax Beneficiaries) are found 96% of all the farmers, 61% of the laborers, 58% of the skilled tradesmen, and 50% of the business men operating their own individual businesses. The most conspicuous element in this group is the farmer. Ninety-six per cent of the farmers should in self-defense support an income tax and should drop immediately all talk about a property off-set. Only three and a fraction out of 100 farmers have any chance to gain from an off-set. The explanation is simple—if our facts from Wisconsin are at all typical of the situation in general. The adoption of an off-set reduces the yield of the income tax 49%. That loss of potential income tax means 7% more to be raised in the form of property taxes. The off-set, in other words, will increase the farmers' property tax by 7%. His income under present conditions is so small that he rarely has an opportunity to off-set an amount equal to anything like 7% of his property tax bill.

A majority of the laborers, tradesmen, and business men operating their own individual businesses should for the same reason support an income tax and oppose an off-set.

In the DE group (the Property Tax Beneficiaries) are found 61% of the clerical occupations, 52% of the professional, and 40% of the other salaried classes; or, to indicate the composition of the group in another way, 24% of this group are from the clerical occupations, 18% are salaried people, 16% professional, 16% laborers, 14% tradesmen, 5% business men, .2 of 1% farmers, and the remainder unclassified.

In the BCD group (the Off-set Beneficiaries) are found 24% of the business men, 20% of the professional, 19% of the salaried, 19% of the laborers, 13% of the tradesmen, 3.3% of the farmers, the remainder being made up of clerical and unclassified groups.

A number of implications may be derived from the facts briefly summarized above, only one of which will be indicated here. This is the fallacy of the assumption that under a property tax off-set "property" must necessarily benefit. The widespread discussion of the off-set has been carried on largely as if it were an issue between *property owners*, on one side, and *non-property owners*, on the other. The fact is that non-productive or low-income property does not necessarily benefit at all; and under normal circumstances cannot benefit except when in possession of an owner who can use it to off-set taxes on incidental or extraneous income not connected with the property. If we are speaking of property as a business asset and of income derived from business assets, such property

would have to net at least 5 to 7% in order to put its owner in the off-set class. It is only the high-yielding property that would regularly benefit from the property tax off-set.

In conclusion, let me say that this does not purport to be in any sense a solution of the off-set problem. There are aspects of the problem to which this approach does not apply at all. It is offered, in all modesty, as a suggestion of the possibility of making a factual approach to the problem, and in the belief that even these tentative results indicate with a good deal of precision the effects of a property tax off-set upon the interests of a number of groups, who in the past have been very much confused in their conceptions of their own best interests.

CHAIRMAN HOLCOMBE: That is a highly interesting and important paper and well worth our study. It happens to be a paper that we shall have to study before we can even intelligently understand it.

Now, we have another paper that is equally important, and one that we have neglected all these years. We should like to have it now, before people begin to leave. It was scheduled for Friday. We thought, being so important, it ought to be presented while there is a good attendance. Therefore, unless there is objection to that course, we should like to have Professor Jensen make his talk on delinquent taxes at this time, and then we will discuss both of these papers afterward.

The president has a few announcements to make before we continue. I wish you would remain for this paper.

PRESIDENT FAIRCHILD: You may be interested to know that the registration to date is 439, representing 42 states and Canadian provinces.

I have to announce the meeting places of the several sessions Thursday morning, as follows: The bank tax discussion will be in the main conference room, this room on the twelfth floor; the inheritance tax group will meet in the general assembly room, just across the hall, on this same floor; the income tax group in the Aztec Room on the second floor; the sales and excise taxes group in the Cabinet Room in the southeast corner of the second floor.

It appears that the program is working out so that it will be possible to bring everything in and adjourn the conference Thursday night. Professor Jensen's paper will come at once; and that leaves assigned to the Friday morning session only the matter of resolutions and miscellaneous business and adjournment. It will certainly be possible for us to work the resolutions in at some earlier time to make it possible to adjourn the conference Thursday night. Please extend this notice to your friends.

I also announce a telegram received from Professor Lutz, in-

forming us that he will not be present. I had counted on him to serve on the committee on nominations, and in view of his absence I hereby appoint Mr. Douglas Sutherland of Illinois to serve in his place on that committee.

Mr. Cady will have some announcements about the ride this afternoon. If he is here I should like to ask him to make that announcement himself. If not, he will doubtless appear here and tell you about it before this session adjourns this morning.

CHAIRMAN HOLCOMB: Now, we have this paper which is of extreme importance to tax bodies in this country. I am greatly pleased to be able to present Professor Jens P. Jensen. I have a soft spot in my heart for him because he has stepped into the breach and helped me with the *Bulletin*, and stands ready to do so in the future. Professor Jensen of the University of Kansas will now give his paper.

PRESIDENT FAIRCHILD: May I interrupt for one more announcement. I make a nuisance of myself. I find that Senator Sullivan is having a special session of those interested in the bank taxation problem in the Colonial Dames Room at 2:30 this afternoon.

JENS P. JENSEN (Kansas): Mr. Chairman, Ladies and Gentlemen: If I am tall enough to reach this thing before me (microphone) I will try to make myself heard, with your assistance. Well, I can even hear myself better, with this thing.

## DELINQUENT TAXES

JENS P. JENSEN

University of Kansas

As far as I know, this is the first occasion on which the subject of tax delinquency has been given a place on the program of the National Tax Conference, in the form of a paper for discussion. There have been incidental references and brief discussions, as parts of some other subject. In a sense, therefore, I am engaged in a pioneering effort. I mention this solely in order to have at hand a valid explanation in case the effort should not be very impressive.

Tax delinquency is not new. Presumably, as long as there have been taxes to pay, there have been persons who could not or would not pay the taxes assessed against them; and that is essentially all tax delinquency is. As I was searching for data on which to base this paper I came upon an old, bound volume, containing a long list of parcels sold for taxes in New York State, some of the taxes delinquent more than a century ago. A few minutes later the *Chicago Tribune* of October 7 reported that this year approxi-



mately 300,000 parcels of land, three times as much as in 1928, would be advertised for sale for non-payment of taxes in Cook County. The estimated amounts involved range from \$5,000,000 to \$8,000,000 of tax certificates, depending upon how many the buyers will take and consequently how much will be forfeited. The report continues that the buyers are refusing to an unusual extent to buy the tax certificates. Doubtless these enormous amounts reflect "unusual" tax weather in Cook County. But from other states also come reports tending to show that the curve of tax delinquency is rising rapidly, though no one can say how generally or how uniformly. The evidence clearly shows that we have in the growing tax delinquency a serious problem on our hands.

I make no claim to a very extensive, detailed, and intimate familiarity with the past or the present status of tax delinquency. Unfortunately, no one else, to my knowledge, can make such a claim. My attention was drawn to the problem several years ago by the occasionally recurring press accounts of local delinquency in diverse places, and by the stories of the more or less ingenious methods of dealing with delinquent real property, as well as by the efforts in some states to prevent delinquency of personal property, such as motor vehicles, through collection of the property tax on the occasion of the payment of the registration fee. Here and there a state tax commission, notably those of Ohio and North Carolina, have published some statistics of tax delinquency in recent years. During 1929 it was my privilege to participate in the investigation of the Kansas Tax Code Commissions whose inquiries included one into the condition of tax collections. And during the past summer I have participated in a survey of the Colorado tax system, which included an inquiry, through the courtesy of the Colorado Tax Commission into the tax delinquency of the state.

On this very limited factual basis, it would be both improper and impossible to try to present statistical data purporting to show the status of tax delinquency in the entire country, and, still more so, to offer an extended list of remedies. The scattered samples of evidence that have been available amply warrant the conclusion that a more general and detailed study should be made by some agency of prestige and means. The task is beyond the capacity of any individual person. But the available information is adequate to serve as a basis for the formulation of a list of intelligible inquiries designed to disclose what we ought to know about tax delinquency. To formulate these inquiries, and to show reasons why they are necessary, is the task before me.

### I. DEFINITION OF DELINQUENCY

First of all, it would seem to be necessary to decide what is meant by delinquency. It is desirable that all students should speak

a common language. Taxes are not delinquent if they have never been properly assessed, as in cases where taxable property has evaded taxation through non-listing. Yet it is not uncommon to have this and other types of tax evasion designated as delinquency. And taxes are not delinquent when paid under protest preparatory to being contested as allegedly invalid. Also, we do not have a case of delinquent taxes when payment of amounts based on double or erroneous assessments is refused, although the present figures of delinquencies are undoubtedly swelled by such amounts to an unknown degree.

There are several stages of delinquency. Presumably, there is in every state a dead-line for the payment of taxes. If they are unpaid on that date they may be said to be in the first stage of delinquency. They will then be advertised for sale, but before being sold, an appreciable part is paid. That part of the original delinquent amount which is offered for sale may be said to be in the second stage of delinquency. But some taxes cannot be sold and the state or county must then take the delinquent property for disposal in some way. That part which is not taken when offered for sale may be said to be in the third stage of delinquency. It is quite probable that the collection procedure is such in some states that this division into stages does not fit. It is merely a suggestion. It is possible, for example, that some taxes are paid after the deadline date, but before being advertised. Those advertised would then be at the second stage rather than the first and there would then be at least four stages. But it is obvious that if we are to have comparable statistics of delinquent taxes, the figures that are aggregated must not represent delinquency at different stages.

In all states, I believe, there are certain additional amounts that must be paid by delinquent taxpayers in the form of pecuniary penalties, costs, interest, or forfeiture of discounts. These amounts appear to be sometimes included and sometimes excluded. It would be better to have them reported separately. Otherwise accurate aggregate figures cannot be had showing the extent of the delinquency.

Any tax may presumably become delinquent, but the present discussion relates to the general property tax only. While any tax delinquency may be worth studying, that of the general property tax is peculiarly so because of its great fiscal importance, because of its nation-wide use, and because of its administration being separate, and the data therefore separately available.

## II. EXTENT OF PROPERTY TAX DELINQUENCY

It is obviously desirable to know the extent of the delinquency. That is the best single measure of the magnitude of the problem, when expressed in some relation to the amount of taxes levied.

And it may be desirable to measure the delinquency at more than one stage. Other measures there may be, such as the number of delinquent taxpayers, or the number of parcels of delinquent property advertised for sale, sold, or forfeited for non-payment.

In Colorado,<sup>1</sup> in 24 counties of the 63 which reported on that point, taxes were charged in 1928 to the amount of \$17,742,590.76. Of this sum, \$951,420.09, or 5.37 per cent, became delinquent and were advertised for sale in 1929. Probably that percentage of delinquency at its first stage represents tolerably accurately the condition of the entire state of Colorado. The North Carolina Special Tax Commission of 1928 took occasion to inquire into the tax delinquency of the state. It found and reported<sup>2</sup> that of the total levy for 1927 of \$45,695,730, the sum of \$4,257,256, or 9.32 per cent, was delinquent and advertised for sale in the state. For some years the Ohio Tax Commission has published amounts of real and personal property taxes delinquent by counties. The 1928 report<sup>3</sup> showed that of the total amount carried on the 1928 duplicate of \$378,395,036, the sum of \$45,105,836.76, or nearly 12 per cent, was delinquent. But this figure includes delinquencies of earlier years, and no indications are had of the delinquency of the latest year separately. Hence the Ohio figures are perhaps not, for this reason and probably for other minor reasons, comparable with the figures for Colorado and North Carolina. Published delinquency figures for other states are not readily available. But these three scattered states show delinquency to such a degree that the problem is worth investigating.

In Colorado, of the \$951,420.09 of delinquent taxes advertised for sale in 1929, in the 24 counties reporting, the sum of \$456,855.99, or about 48 per cent, or 2.85 per cent of the total taxes charged, was paid after being advertised but before being sold. In North Carolina, of the \$4,257,254 advertised for sale of the 1927 taxes, the sum of \$2,457,256,<sup>4</sup> or 57.72 per cent of the amount advertised, or 5.38 per cent of the total taxes levied, was paid before being sold. The Kansas Tax Code Commission of 1929 inquired into the tax delinquency, particularly into the tax sales, and found<sup>5</sup> that the percentage which the tax sales in 1928 were of total taxes levied, in 31 counties of the 105, was 2.2 per cent. If the figures for Colorado and North Carolina are representative of the condition in the rest of the states it would appear that roughly one-half

<sup>1</sup> These figures and other Colorado figures are from original data of the Colorado survey, and from the manuscript of the yet unpublished report.

<sup>2</sup> *Report*, p. 429.

<sup>3</sup> P. 14 and Table No. 8.

<sup>4</sup> *Report*, p. 429.

<sup>5</sup> *Report*, p. 95.

of the taxes that are delinquent at the first stage, that of being advertised, reach the second stage, that of being sold for taxes, or at least of being offered for sale. But the data are, of course, far too meager to warrant any conclusion, except a tentative and conditioned one, on the extent of the delinquency at either the first or the second stage.

### III. DISTRIBUTION OR ANALYSIS

For certain reasons it is at least as important to know something about the nature and the distribution of the delinquency as to know its magnitude. Hence analysis on several different bases is necessary.

#### A. *Distribution by Years*

Is the delinquency decreasing or increasing? Of course only when data for several successive years, or for different years at some interval, are available, can the answer to this question be given. The inquiry of the Kansas Tax Code Commission covered the three years of 1920, 1925 and 1928; and the respective percentages which the tax sales were of total general property taxes were 1.5 per cent, 2.0 per cent, and 2.2 per cent. The inquiry of the North Carolina Tax Commission covered the four years, 1924 to 1927, inclusive; and the respective percentages which the land sales for taxes were of the total gross charges to the tax collector were 3.55 per cent, 4.17 per cent, 5.16 per cent, and 5.64 per cent.<sup>6</sup> The published delinquency data of the Ohio Tax Commission cover the years 1922 to 1928, inclusive; and the respective percentages which the delinquent taxes were of the total taxes carried on the duplicate were 6.27 per cent, 7.39 per cent, 7.84 per cent, 8.27 per cent, 9.07 per cent, 10.25 per cent, and 11.93 per cent.<sup>7</sup> The Kansas State Agricultural College supplied the Tax Code Commission with data showing<sup>8</sup> that in 21 counties reporting, tax delinquency of farm real estate increased 329 per cent between 1917 and 1927.

Though the Ohio figures are not comparable, and the data for the other states are perhaps not based upon identical definitions, they agree well in showing a strong upward tendency in the tax delinquency. But it is to be remembered that the period involved is that of the post-war deflation. The increase in the delinquency is real enough, and is the symptom of a real economic maladjustment; but it is not necessarily to be predicted that the curve of delinquency for the next decade will continue to mount, or even that the present high position will be maintained.

<sup>6</sup> *Report*, pp. 434-439.

<sup>7</sup> *Report*, p. 155.

<sup>8</sup> *Report*, p. 115.

*B. Geographic Distribution*

It is also desirable to know how the delinquency is distributed throughout the state, or the country. For it is by comparison of the concentration or absence of delinquency with the economic characteristics of the afflicted areas that we shall discover the causes of the delinquency, and learn what are the proper remedies. The available data, limited though they are, show wide geographic variations. Thus while the data furnished by the Kansas State Agricultural College show an increase in delinquency for the state as a whole of 329 per cent between 1917 and 1927, the corresponding increases were 156 per cent for the Grazing Region, 276 per cent for the General Farming Belt, 364 per cent for the Wheat Belt, 389 per cent for the Corn Belt, and 9,540 per cent for the Blue Stem Region. The phenomenal increase in the Blue Stem Region is partly explained by the fact that only one county reported in that region. It may be said that that county was not typical. Of course not, but just now we are looking not for the typical but for the variations; and, of course, the smaller the areas considered, the wider will be the variations from the average for the state.

The concentrations, or the variations, are shown for North Carolina by the 1928 Tax Commission.<sup>9</sup> While of the 1927 taxes the percentage delinquent for the state as a whole was 9.32 per cent, it was 6.27 per cent for the Piedmont Section, 7.42 per cent for the Coastal Plain, 14.28 per cent for the Tidewater Section, and 17.04 per cent for the Mountain Section. It is interesting that there are relatively much wider variations in the percentages of the taxes that were actually sold or offered for sale than in the figures above, which are for the taxes advertised. The taxes offered for sale in North Carolina for 1927 were 5.38 per cent of the total taxes levied for the state as a whole. For the various sections the figures were 2.82 per cent, 4.57 per cent, 9.45 per cent, and 10.49 per cent. The greater concentration of the offerings for sale than of the amounts advertised was to be expected. For in the areas of high concentration of delinquency we should expect that a larger percentage than elsewhere would be due to causes other than carelessness and temporary financial embarrassment.

The North Carolina Tax Commission presented data of delinquency by counties for the years 1924 to 1927, inclusive.<sup>10</sup> While the average percentage of land sold or offered for sale for taxes in the state as a whole was 5.64 per cent for the year 1927, there was one county in which over 20 per cent was offered for sale, 5 in which it was over 15 per cent, 21 in which it was over 10 per cent,

<sup>9</sup> *Report*, p. 429.

<sup>10</sup> *Report*, pp. 434-449.

and 33 in which it was over 5 per cent. At the other extreme there were 14 counties in which the sales were zero or less than 1 per cent. Moreover, these concentrations tended to persist from year to year in the same counties, though there were exceptions. The variations among the counties persist for the earlier years, though the average for the state in these years was less than in 1927.

A similar concentration is apparent in Colorado. Of the 1928 taxes, more than 30 per cent was advertised for sale in one county, more than 20 per cent in 4 counties, and more than 10 per cent in 6 counties of the 24 reporting. The mean percentage for the state was, as stated above, 5.37 per cent. The data of delinquency, by counties, for Ohio also show wide variations, though the concentrations are somewhat flattened out by the fact that the data include not only the current, but also the earlier years' delinquencies.

#### *C. Distribution on Other Bases*

The composition of all the taxes delinquent at any given time, with respect to the years of the past to which the delinquency relates, is important because it shows the extent of the hangover of the amounts delinquent. The North Carolina Tax Commission found<sup>11</sup> that of the \$4,433,244 of uncollected land-sale certificates held in 1927 by the various counties, 55.09 per cent were for the first year of delinquency; 15.62 per cent, for 1926; 7.52 per cent, for 1925; 4.29 per cent, for 1924; and the remainder, or 17.48 per cent, scattered over an indefinite number of years backward from 1926, some of them dating back as far as 1875. Of course, some of these long-time delinquencies are due in part to errors in the assessment, court decrees, and other reasons for non-payment. Naturally enough, for the state as a whole, over 50 per cent of the uncollected taxes related to the first year of delinquency. But these were several counties in which the still delinquent taxes for some of the earlier years exceeded those delinquent for 1927 by wide margins. There are two obvious reasons why it is important to segregate the delinquencies according to the years to which they relate. For statistical purposes, they should be segregated in order to obtain a true measure of the delinquency. And for remedial purposes they should be segregated so as to facilitate the application of proper remedies to the elimination of the hangover of delinquencies from past years.

The scattered data are defective in that they do not provide a basis for segregating the delinquencies according to whether they consist of the original taxes delinquent, of costs taxed on the original amounts, of penalties imposed, or of interest added. Also

<sup>11</sup> *Report*, p. 451.

it can often not be seen whether they cover delinquencies of real property, of personal property only, or of both. It would be of value to know also whether, for example, the delinquent taxes on personal property are largely caused by non-payment of taxes on automobiles.

It would probably also be instructive if the delinquencies were segregated to show whether the delinquency was related to the size of the tax claim. The North Carolina Tax Commission made such an analysis, showing<sup>12</sup> that of the 101,325 items, 31 per cent were less than \$10 each, probably in many cases including costs; and that over 54 per cent of the items were for amounts less than \$20, again probably often including costs. At the other extreme, only 649 items, or less than .7 per cent, were for amounts exceeding \$500. It is probable that the smaller items will occur relatively more frequently as delinquent than do the larger ones, compared with the original tax levies. But no such analysis has been made fully anywhere, to my knowledge.

#### IV. LEGAL PROVISION RELATING TO COLLECTION

One needs but to refer to the elaborate and varied legal provisions relating to the collection of taxes to understand that the payment of taxes is an unpleasant task, and that it has been necessary to carry on experiments for centuries in attempting to make the collection effective. To my knowledge, these various provisions have never been made the object of a formal study. It is possible merely to suggest the various major items of interest in such a comparative study. Doubtless, the knowledge gained from such an investigation would aid in reducing the delinquency.

The date on which taxes are due varies from state to state. The date can probably not be fully described in a single state by means of a simple sentence. In some states partial payments may be made without incurring penalties. The practice of sending or giving notice of taxes due varies among the states. In most of the states the county treasurer is the collecting officer; but the sheriff sometimes is, and he must generally collect some of the delinquent taxes. Special collectors are often employed on salary or on commission. Generally the taxpayer is required to make the payment at the county treasurer's office or some subsidiary office temporarily provided, but sometimes the treasurer or other collector must make the round or rounds to the taxpayer for collection.

Every tax-collection law bristles with penalties designed to encourage or compel prompt payment. Pecuniary penalties for delayed payment are common; forfeiture of discounts for prompt payments less common; but nearly always there is a high rate of

<sup>12</sup> *Report*, pp. 426, 427, 475-478.

interest and the taxing of costs. The forms of these penalties, however, are so varied as to require painstaking analysis. There are, in general, two obvious purposes to be served by these penalties. One is to reimburse the public treasury for costs and delayed payments which may necessitate borrowing in anticipation of taxes. In most of the states the interest rate is so high that those taxpayers who ultimately pay their taxes in full amply reimburse the public treasury. The other purpose is to induce the taxpayers to pay promptly. It is apparent from the growing percentages of delinquency that this second purpose is not attained by means of the penalties. Whether severer penalties would reduce the delinquency, or whether lighter ones would increase it, can only be guessed at.

In some form or other provisions occur everywhere for the sale of the delinquent property. Or is it for the sale of the delinquent taxes? What is it that is acquired in the purchase of a tax certificate? Is it the delinquent property, or a contingent right to apply for a deed to it at some future date in the absence of redemption, or is it merely a contingent claim for taxes, interest, and costs, that may be satisfied, in the absence of redemption, through foreclosure procedure? Whatever the form of the procedure, is it suitable for the purpose? Does the tax lien cover particular items of property or all the property of the taxpayer?

There is practically no effective cooperation in tax collecting among the collectors of the various counties, and even less among those of the different states. And there are only scattered arrangements for the special collection of taxes on property such as motor vehicles and grazing cattle that are likely to get away before the taxes are due. In many states the assessment procedure is such a long protracted process that it must be like paying for a dead horse to pay on property that was assessed or did exist perhaps twelve or eighteen months before. Even though the owner has not moved away, his ability to pay, and surely his disposition to pay, may have become much worse during the period.

#### V. COLLECTION PROCEDURE

A comparison of the actual collection procedure with that prescribed by law might reveal striking discrepancies, not all of which would necessarily be bad. But some of the failures to comply with the law are bad. For example, the county authorities often fail to conduct sales of tax certificates though the law clearly prescribes such sales.

The increasing volume of sales has provided an opportunity for the development of a specialized business of tax-certificate financing. These financiers purchase such certificates as will in all probability be redeemed, holding them for the sake of earning the high rate of interest. By borrowing from banks, using already



acquired certificates as collaterals, they pyramid their purchases, and some of them evidently do a thriving business, often operating in several states. They avoid purchasing certificates which may have to be satisfied by taking possession of the delinquent property.

The data from the Colorado inquiry referred to above demonstrates to a degree how these tax-certificate financiers operate. Of the \$583,323 of tax certificates offered in 1929, \$137,800, or 23.6 per cent, was taken by persons or firms specially organized to acquire, handle, and hold such certificates, according to the reports of county treasurers in the twenty-eight counties reporting. The sum of \$114,899, or 21.3 per cent, was taken by miscellaneous local buyers, the balance of \$285,624, or 53.1 per cent, having proved unattractive to any class of buyers, went to the counties for later disposal or for indefinite retention. It would be very interesting to know what becomes of these increasing holdings of land forfeited to the counties for taxes. For in many counties it is plain that the counties are compelled to take possession of land much faster than they can dispose of it.

For the purpose of showing the operations of the tax-certificate financiers, it is interesting to note that in 14 of the 28 Colorado counties they took no certificates, and that these counties were, with one exception, the counties that had the highest percentages of delinquent taxes at both the first and the second stages of delinquency, and where therefore the certificates were likely not to be redeemed. In six of the remaining 14 counties reporting, they took fifty per cent or more of the certificates, and these six counties were those that had, with minor exceptions, the lowest percentages of delinquency at both the first and the second stages.

These tax-certificate financiers are the modern tax farmers. To them the modern state delegates the farming of, not all property taxes, but those that can be financed profitably at the cost of the taxpayers themselves. To them is delegated the odious task of advancing money to the public treasury in exchange for claims for reimbursements from the taxpayers with interest at usurious rates. As an example of what these rates are, or may be, we may cite those of Colorado. From the due date until sale, the rate is 10 per cent per annum. After sale the rate is 18 per cent on the taxes delinquent and the costs of advertising for a period of six months. For thirty months thereafter the rate is 12 per cent. From a date three years after sale, whether tax deed has been taken or not, during a redemption period of five years, the rate is 8 per cent. It is obvious that the lucrative part of the tax certificate business is that part which consists of acquiring and holding those certificates that will be taken up by the owner within six months, and surely within three years. Hence the care in selecting the suitable counties in which to operate. Since, on these terms, over fifty per cent

of the certificates cannot be sold, at least not at the first formal offering, there is obviously something wrong with these certificates.

#### VI. CAUSES OF DELINQUENCY

This observation brings us to the most interesting inquiry of all, namely what are the causes of these obviously unsatisfactory conditions. Why do taxes become delinquent? Why does the percentage of delinquency increase so rapidly, at least within the limited areas and years to which the available data apply? With what economic phenomena are the striking concentrations of delinquency associated?

The Colorado county treasurers were asked for a statement of the causes of delinquency. Obviously, they could not know intimately what was the cause in each case; but their estimates throw some light. Most of them had evidently sensed the causes in their counties. In answer to the question of what percentage of the delinquency was due to carelessness on the part of the taxpayer, 23 treasurers offered estimates ranging from less than 10 per cent to nearly 100 per cent. The fact that the median percentage estimated was 10 per cent shows that the majority of the treasurers regarded carelessness as a minor but still a real cause. That is a factor which, human nature being what it is, we shall probably continue to have with us. The fact that nearly one-half of the delinquent taxes at the first stage were paid prior to sale would suggest that carelessness is perhaps more important than the treasurers estimated.

To another question, as to what percentage of delinquency was due to inability to raise the money, the treasurers assigned much greater importance. The median percentage estimate was 75 per cent. The particular causes of the inability to raise the money may be indicated by such running comments as bad mining conditions, general depression, local depression, consecutive crop failures and the like. Presumably most of the delinquency at the first stage which disappeared before the second stage was due either to carelessness or to temporary inability to raise money.

In asserting that there was a close relationship between business conditions and tax delinquency the Colorado county treasurers were decidedly right. Undoubtedly the reports of the county treasurers, auditors, comptrollers, or other fiscal officers in every state, where such reports are made, would show this relationship. For example, the comptroller of the city of Chicago publishes the accumulated delinquencies by years since 1901, the date of the present revenue act. In the table following are shown, for selected years, the total taxes levied, the total delinquency in each year, and the percentages which the delinquent were of the total taxes in the city of Chicago.

TOTAL TAXES LEVIED, TAXES DELINQUENT, AND PERCENTAGES  
DELINQUENT TAXES WERE OF TOTAL TAXES LEVIED  
IN CHICAGO FOR SELECTED YEARS

| <i>Years</i> | <i>Total<br/>Taxes Levied</i> | <i>Delinquent<br/>Taxes</i> | <i>Percentages<br/>Delinquent<br/>Taxes were of<br/>Total Taxes</i> |
|--------------|-------------------------------|-----------------------------|---------------------------------------------------------------------|
| 1901 .....   | \$ 14,245,294                 | \$ 372,000                  | 2.8                                                                 |
| 1906 .....   | 17,434,109                    | 250,932                     | 1.4                                                                 |
| 1907 .....   | 22,605,709                    | 506,374                     | 2.4                                                                 |
| 1908 .....   | 22,666,544                    | 458,161                     | 2.2                                                                 |
| 1915 .....   | 37,816,929                    | 1,400,024                   | 3.7                                                                 |
| 1916 .....   | 39,662,464                    | 2,752,549                   | 6.9                                                                 |
| 1917 .....   | 40,923,952                    | 1,387,838                   | 3.4                                                                 |
| 1920 .....   | 64,703,260                    | 2,907,904                   | 4.5                                                                 |
| 1921 .....   | 92,905,279                    | 7,065,861                   | 7.6                                                                 |
| 1924 .....   | 112,810,090                   | 6,987,776                   | 6.2                                                                 |
| 1925 .....   | 114,094,301                   | 11,295,300                  | 9.9                                                                 |
| 1926 .....   | 133,888,791                   | 8,960,020                   | 6.7                                                                 |

Data taken from 1927, *Report of the Comptroller of the city of Chicago*, pp. 205, 207. The report contains no explanation of the data.

In 1901 the delinquent taxes were 2.8 per cent of the total. In 1906 they represented only 1.4 per cent. But in 1907, the year of the panic, the percentage rose to 2.4 per cent, and fell again in 1908 to 2.2 per cent. The variations in the delinquency, corresponding to the variations in business prosperity, are however more conspicuous in later years. Thus in 1915 the percentage was 3.7 per cent and it increased to 6.9 per cent in 1916, but fell again to 3.4 per cent in 1917. Again in 1920 the percentage was 4.5 per cent, but in 1921, the worst year of the post-war depression, it rose to 9.9 per cent, or practically doubled. The data are not yet available to show the delinquency for 1930, but the rumored statements are to the effect that the percentage of delinquency will be greater in 1930 than ever before.

The data of the table raise another suggestion, namely whether the increasing taxes do not have something to do with the apparent increase in the delinquency. The Chicago property taxes in 1901 amounted to \$14,245,294. But a fairly regular increase took place each year until in 1926 the amount was \$133,888,791. Allowing for the increase in population, and for the greater per-capita wealth, it is still true that the property-tax burden has increased rapidly. And the fact that the moving average of the tax delinquency percentages was about three times as high in 1926 as it was in 1901 is not unrelated to the increase in the tax levies and in the tax rates. One of the by-products of an investigation of tax delinquency might thus be a reinforcement of the arguments for lower property taxes, either through reduced expenditures or through the

use of some additional bases for a part of the present taxes, such as income or consumption.

Let us return to the Colorado inquiry. To a third specific question as to what percentage of the delinquency was due to taxes so high as to consume all the income from the taxed property, making it undesirable to hold the property subject to the excessive taxes, several of the treasurers replied that it was a negligible factor, evidently in part because they did not understand the implications of the question. Some believed that as much as 90 per cent was due to this factor, and the median percentage was 16.5 per cent. The running comments explaining their statements were such phrases as excessive special assessments, exorbitant property taxes for local school projects and for improved highways.

What most of the treasurers meant was that expenditures for the mentioned purposes were too high. But what probably was wrong and effective in causing delinquency was the grossly excessive assessments of many of the delinquent properties, in comparison with the rest. In most if not all of the counties in most if not all of the states there are parcels of real property whose productivity or desirability for use has depreciated. If the assessors continue to assess such properties on the basis of past valuations, and such is the all too common practice, or if they assess such property without considering the taxes as a factor diminishing the income, which is the basis for the capital value, as they all too frequently do, it is clear that the taxes, even at moderate rates, on the inflated valuation may readily take all or more than the net income before taxes. In such cases, if there is no hope of speedy relief, it is surely a wise procedure to let the property "go for taxes."

We may go further and say that some parcels of land have no value, even when there are no taxes. If such parcels are nevertheless given an assessed value, as is again a common practice, it is expedient not to pay the taxes thereon. The value of such land, subject to any tax, is a negative quantity, and it is easy to see why buyers of tax certificates refuse to operate in counties where the certificates are likely to represent real property of this class. In such cases the tax has ceased being a contribution out of the income from property, made by the owner toward meeting the costs of government, and has become a means of extinguishing private titles to land. In case of valueless land this involves no great hardship to the owner. The title to such land ought to revert to the state anyhow. For though it may be valueless to a private person it may have a value to society if the state were properly equipped to hold and use it.

I quote three short paragraphs from the 1928 Report of the New York Tax Commission<sup>13</sup> because they state some of the implica-

tions of the problem. The paragraphs have their setting in a discussion of farm taxes, but they are equally applicable to the mining regions of Colorado, to the cut-over lands of Minnesota and Wisconsin, and perhaps even to certain kinds of urban lands.

"Studies in other states indicate clearly a tendency on the part of assessors to relatively overvalue properties of small value and a tabulation of real-estate sales presented in the 1925 report of the Tax Commission indicates that this is also true of New York. There are several reasons for this, among which are a greater familiarity with small properties and a tendency to value all land in a district at a flat value per acre.

"Finally there is much land in New York State that, as measured by its earning power, has no value. Yet this land is bought and sold and is assessed for taxes. Some land is assessed that cannot be sold. In either case such taxes as are paid must come out of capital instead of income, and in the case of land that cannot be sold at any price, such value as is placed upon it is obviously purely fictitious. Taxes on such lands, of course, frequently become delinquent.

"The results of delinquency in the poorer agricultural areas may become very serious. Such data as are available indicate that the problem of general tax delinquency that is being faced in several states is not present in New York. Delinquency in New York results for the most part from the methods of collection rather than from inability of property owners to pay taxes. Yet delinquency once started, tends to be cumulative. If land within a small political area becomes delinquent, a greater portion of the costs of government of that area is thrown upon the shoulders of the tax-paying property owners. If some of these property owners are near the margin this added burden may cause them to give up their farms and allow their taxes to become delinquent also. Thus the rising costs of government per taxpayer increases itself. Some New York towns have already reached this stage, and if the movement is not checked there is little doubt that within a few years these towns will have become completely decadent, and no taxes will be paid on good lands or bad. There will be no governmental services, roads or schools and the area will be depopulated."

There are, of course, other causes of tax delinquency. For example, property owners may let their taxes, especially on personal property, go unpaid in the hope of effecting a compromise with the taxing authorities. It is reported that merchants have threatened to leave a city for a competing city if they were not given concessions, not only in the assessment of their property but also in

compromising taxes that have been levied and become delinquent. There is also a good deal of inefficiency on the part of the tax collectors. But on that point evidence cannot be collected from the tax collectors themselves.

## VII. CONCLUSION

It would be improper and it is impossible to state in detail the remedies that should be applied to meet the evils of the growing problem of tax delinquency. But some things can be done on the basis of what we know.

The most pressing need is for more information. Two ways to get this information suggest themselves. First, some agency should make a comparative study of the problem in all its ramifications. The project is too large for any one person. With this agency the state tax commissions could profitably cooperate by aiding in securing the information from their respective states.

Second, whether a coordinating, comparative study is made or not, the collecting officers should be required to report not only what was collected, but data that would be intelligible to the public, showing in some detail the condition of tax delinquency.

And finally, to mention only one of the things that could be done, greater efforts should be made toward more accurate assessment of marginal real property. For it is apparently in that way that a great deal of delinquency can be prevented.

CHAIRMAN HORTON: Now, this is a highly important topic; not only is it interesting to us sitting here, but we ought to think of it, ought to study it, to take pains to ponder on the suggestions. Now then, the discussion must be necessarily very brief on these two papers. While you are thinking of any discussion, Mr. Cady will make an announcement or two in regard to this afternoon.

THEODORE S. CADY (Kansas): Just a word. In spite of the very bad weather, we are going to have the golf games this afternoon. Busses will leave the south entrance of the hotel promptly at one o'clock. If there are more than one bus will carry, another will be there in a very few minutes. The drive over the city will start at two o'clock from the same location—the south entrance of this hotel. All of you are very cordially invited to take the drive over the city this afternoon.

(Adjournment)

## SIXTH SESSION

WEDNESDAY EVENING, OCTOBER 22, 1930

DINNER SESSION

BANQUET AT 7:00 O'CLOCK

ADDRESSES AT 9:00 O'CLOCK

CHAIRMAN FAIRCHILD: Just to warn you, ladies and gentlemen, in five minutes we go on the air, during which time I suggest that you arrange yourselves comfortably to listen to the further program.

(Flash for microphone)

CHAIRMAN FAIRCHILD: Ladies and gentlemen, we are assembled tonight as delegates and guests of the Twenty-third Annual Tax Conference in enjoyment of the kind hospitality of Kansas City. As master of the evening, my duties are simple and brief, although very agreeable. I have only to present the speakers, who, during the next hour, will instruct and entertain us.

It is with regret that I have to announce that His Excellency, Governor Caulfield, has at the last moment been forced to send his regrets. My regret, however, is counteracted by the pleasure with which I welcome the distinguished gentleman who is to take his place. This is the second occasion upon which I have been privileged to introduce the Lieutenant Governor of the state at this conference, and I know that you will share my pleasure in hearing him once again. He has told me that he will speak to us rather more on matters of expenditure than taxation. I know that that will sound a note of welcome to us, surfeited with discussion of taxation thus far.

Ladies and gentlemen, I present Lieutenant Governor Edward H. Winter of Missouri.

LIEUTENANT GOVERNOR EDWARD H. WINTER (Missouri): Mr. Chairman and ladies and gentlemen: I never like to talk into one of these inanimate objects such as is placed before me here; yet, I am glad to come back to you, though I feel I have been placed in a very difficult position. I know that an audience who expected to hear a governor, and particularly the Governor of the state of Missouri, is seriously disappointed. I cannot hope to take his place. When he wired me here at your first gathering on Monday evening

asking me to come back to you for him this evening, I found it necessary to leave here and go out into northern Missouri and bolster up the Hoover prosperity! As a good partisan I thought it was my duty to do that. I thought I had done a good job. I came back to Kansas City this evening, feeling quite well satisfied with several days of work, and ran into some disappointment here. A little while ago I met our very fine guest from Toronto, Mr. White; he tells me that the Hoover depression has spread over into Canada, and they have 160,000 people out of employment. I think we have that many down in Jefferson City, so Toronto is in pretty good shape.

I am glad to come back and know that my proposition to you on Monday evening was not necessary. You will recall that I agreed to and did leave some blank parols in case any of you got into trouble, so that the chairman could hand them out and have you properly taken care of. He advises me that it has not been necessary to issue a single parol.

This evening I am coming back to you to bid you farewell. I am mighty glad to have had you as guests of one of the great commonwealths of the Union. Visiting with you a little while this evening, I feel the difficulty of my position in having to speak to a group of experts, yet I recall someone at one time said that an expert is only a most ordinary sort of a human being a long way from home; so probably we can have a few pleasant moments together this evening. On this matter of an expert, I had it brought home to me in a forceful way a short time ago. Just before I returned to the home of my boyhood days, I wrote an old friend that I was coming, and asked him to meet me at the railroad station. When I arrived there was no one to meet me. I saw sort of an Amos-and-Andy taxicab driven by a young boy, and I asked him if he would drive me over to Father Winter's home. He said he would. I climbed in and asked him his name. It was an old familiar name in that community. He did not know who I was. I asked him if he knew Father Winter over there. He said he did. I asked him if the people in the community generally knew him. He said they did. I asked him what they thought of him. "Well," he said, "everybody loves him around here, he is a grand old man." "Well," I said, "he had a son that went away some years ago to school, then he went into the newspaper business; do the people around here know that young man?" "Oh, yes," he said, "they know him all right." I said, "He was elected to some state office, wasn't he?" "Yes, he was elected Lieutenant Governor of the state," this young fellow promptly volunteered. I said to the young man, "Tell me, what did the people around here in the home community of this young man think about his elevation to a state position?" He looked out of the corner of his eye a little sheepishly, and there



came a sickly smile, and after a moment or two he volunteered something like this, "Well, they just laugh about him." Probably after all it is better to get away from those who know you best, and it is possible that we can make an impression that we actually know something, whether we really know it or not.

Discussing briefly with you the problems of taxation as we have them in our own state—and I shall be obliged to confine myself largely to the problems as I know them, and I must confine myself to problems that have been confronted by my own state, not so much to the solution of these problems or to the technique or mechanism by which they may be solved—I should also like to devote some attention to the increasing cost of government and the reasons therefor.

Missouri, like all other progressive states, has developed her resources and her possibilities for the welfare of her own people. For this purpose vast sums have been spent for the building of roads, for the harnessing of her water powers, for improving her utilities, for improved care of her unfortunate people and her criminal class, and for the improvement of her education facilities and opportunities. This forward step in the service which government has rendered has necessitated the collection of increased revenues, and from this has come the oft-repeated charge that government is wasteful and extravagant.

With the repeatedly changing personnel of state governments, because of our system of government, there is sure to be some waste. The wonder is not that there is some waste but that there is not much more than there really is. Possibly there would be one way to overcome that, and as a Republican I should say that way would be to keep Republicans in power in Jefferson City, so that there might be a continuity of aims and purposes.

Rarely, my good people, is there extravagance. Generally government is honest. It is efficient and it is economical; and when one considers that every two or four years there is a change of executive and department heads, the management of the business of the government in comparison with the large business of the state in its management will be most favorable.

My observation has been that in most departments of the government of the state there is an insistent desire and a determination to render a real service at the least possible cost.

While the cost of government has increased, the demands, and therefore the service which government renders, have increased proportionately. In Missouri, as in other states, there has been a great expansion of public service and most of this has come through the insistent demand of the public. A few examples will demonstrate this statement.

During the past ten years Missouri has lifted itself out of what

was once known as the national mud hole. Several hundred millions of dollars have been expended in the building of one of the greatest and most serviceable systems of hard-surfaced roads to be found in any commonwealth of the Union; and I invite this delegation to travel over our system of wonderful roads to learn the truthfulness of this statement. This, of course, has necessitated the collection of vast amounts of added revenue, but, costly as it has been and is, no Missouri citizen would want to go back to road conditions as we had them prior to 1920. This was a costly yet a needed service which had to be rendered by government upon the demand of Missouri people.

In making our eleemosynary and penal institutions adequate and safe and modern, other vast sums had to be spent and still larger sums must be spent in the future, in order to meet urgent needs and the public demand.

Our educational program has lacked some because of lack of funds, but commendable progress has been made. At the present time there is an insistent demand that all of the children of the state be given an equal chance at an education, and there should be no cessation of effort until this is accomplished. It is one of the outstanding obligations which the present generation owes to the succeeding one. No commonwealth need ever fear an educated people. Usually they are safe and sane and constructive. Most of the problems of government and most of the costs of government are occasioned by ignorance. But, whatever the cost to the state and to the public we cannot evade the responsibility of properly preparing the succeeding generation for a helpful and constructive future citizenship. Upon this in a large measure depends the perpetuity of the republican form of government.

No citizen would want to take a backward step in the care of the inmates of our eleemosynary and penal institutions, or in the proper training of our boys and girls. Thus Missouri, like other states, has made rapid progress along most lines of endeavor; but, in at least one particular, my state has been remiss, and that is the most important function of taxation. Our state has made no advance, no improvement or no constructive change in the constitution, for the method of raising revenues has been in vogue since 1875; and the constitution that was adopted in that year left the provision for taxation unchanged, so that we are operating under laws adopted 65 years ago. When one considers for just a moment the tremendous advance society has made during these years, there is no wonder that our tax system is unjust and unfair and troublesome. In pioneer days the cost of government was light, as little was expected from government. A little service was rendered by government. Crime was neither complicated nor costly. Modern highways were not expected, and the roads of those days cost no more than

a few days of ineffective labor by the poll-tax payers. Scientific health service was neither required nor requested, as life in those days was not congested, and therefore not so complicated as we have it today. Educational facilities were deemed adequate if they provided for the youth of the state an opportunity to learn to read and to write and to figure. Today the education of our youth is the most costly, and yet the most just of the service which government renders. In the pioneer days general property could easily bear the cost of government, but today with modern schools required in each community, with the valuable public health services, the tremendously valuable service rendered by the college of agriculture to the owners of depleted lands, with the ever-increasing burdens of the eleemosynary and penal institutions, with our highway program, and with the ever-growing need for increased government service in community and state and nation, the necessary cost of government has become so great that the plan of taxation adopted by my state 65 years ago has long since become obsolete and inadequate.

The change of investment in property has been so great that it has left the lion's share of taxation on the property owner, the banker and the industrial operator, whose holdings cannot escape the eyes of the assessor.

Records in the office of the state tax commission in Missouri show that on June 1, 1929 the total assessed value of all property, real and personal, was four and one-half billion dollars. Of this sum three and one-half billion was given as the value of property while all personal property, tangible and intangible, was assessed at only six hundred and sixty millions of dollars, or one-seventh of the total property valuation in this state. Yet, on that same day records in the office of the finance commissioner show deposits in the banks of the state to the value of one and one-quarter billion dollars, or double the assessed valuation of the personal property in this state. This of course does not take into account the hundreds of millions of dollars of intangible wealth in the forms of stocks, bonds, notes, and so forth, which are not reflected in bank statements.

In its report to the Governor, the state survey commission makes the statement that 80 per cent of all wealth in the state is intangible, and only 20 per cent is tangible property.

Doctor Loeb who spoke to you yesterday holds that these figures are not correct. It is more than likely that they are not correct, but it cannot be denied that by far the larger portion of the state's wealth is intangible, and that only a small portion of this form of wealth is represented on the books of the tax collector.

If we take the figures of the survey commission as being correct, and that represents only 20 per cent of the wealth of the state, then it would follow that Missouri's assessed wealth, both tangible and

intangible, should be eighteen billion dollars, but the records of the tax commission show only one-quarter of that amount. If all of the property, tangible and intangible, was properly listed on the tax books of the state, all of the financial problems of Missouri would be solved, and the tax burden on any one citizen would be extremely light, almost negligible. The solving of this problem would solve also most of the other problems of our state government. Certain it is, my good friends, that most of the cost of government cannot continue to be assessed against property, nor is there any reason in the world why this should be done. It is not conducive to good government. Every citizen, rich or poor, has a more helpful interest in his government if he contributes something toward making that government possible, even if the payment of his annual tax bill is a painful task.

Naturally the question arises as to how the increasing cost of government in our modern and complicated society should be met.

Who of our citizenship can best afford and who are most obligated to meet this cost, and what shall be the method of collecting the increased burden of government?

My intention has been to point out its present faults, and I shall leave to tax experts of my own state and other states, and those assembled here, the solution of the questions I have just placed before you.

However, a few general principles of the sort of government will be permissible. I believe all elements of our economic and social life should fairly and equitably bear the cost of government. Government is for all the people and all classes have some obligation to it. Government will continue to be great and good and helpful only as it is supported by all of the governed.

In a long legislative career I have never observed any element of society urging the general assembly of my state to assess a just share of the cost of government against that element. Every class of property owner has attempted to protect its interest against taxation and to shoulder that burden on other property. Hence the class of property with the most resourceful and powerful organization for legislative purposes has had its burden lightened, and thereby placed a greater burden upon other property. With this general tendency it must become the burden of taxing agencies to form regulations which will place a just and fair share of taxes against all property, all interests and all people. The man who can afford to pay taxes and who owes his government support, but has dodged taxes entirely, must be placed back on the tax roll.

In Missouri the survey commission found there are thousands with large incomes, made possible in part by the service which government renders, who are not now paying taxes. Their net income is larger many times than that of 90 per cent of the property owners.

They receive the same service from government the property owner receives; their children are educated, their lives and homes are protected, and they are assured life and liberty. Is there any reason in the world why the man with the large or comfortable salary, and no property, should shoulder the cost of the benefits he receives from government upon the man who owns property, while he escapes taxation entirely? The tax-dodgers as a rule have no investment in Missouri land, in business, in industries, or in homes. They live in rented, furnished apartments and enjoy all of the benefits of government for which their fellowmen pay. In times of war such of our citizenship would be classed as slackers; in times of peace they are no less slackers.

I believe the tax problem must be solved by making every citizen share fairly and equitably the cost of government, and by making all forms of wealth bear its full share. In order to accomplish this it may become necessary to employ the income tax more effectively, or it may be necessary to strengthen the corporation franchise tax and the inheritance tax. Some states may find it necessary to provide a severance tax, and in some states luxury and sales taxes have proven successful; but because a man owns no property is no reason for him to evade taxation if he has an income that will warrant taxation. Neither he nor the man who hides his wealth in order to avoid taxation is a commendable citizen, and taxing authorities will solve these problems if they can place both on the tax book. How this can be done must be another story.

After all, my good people, as one of the advisers of the commonwealth of Missouri I have always held that taxation must be for the single purpose of upbuilding the citizenship of that commonwealth.

Missouri has had some progress, or has made some progress in its attempt to solve its tax problem. And, I am sure that through a gathering such as this there will come ideas that will help our commonwealth and other commonwealths. But, after all of the consideration that we have given to this problem and to the other material problems with which we have to deal, I want to leave this final thought with you: The biggest asset of my state, and I am sure of your state, not the material assets that you have, your bank deposits, the stocks of goods on your shelves, stocks and bonds, and broad acres, and all those things as important as they are—I came over here this evening not because of the material wealth of my state or your state—the greatest asset which Missouri has is its people, the finest people in the world. I am glad you came here to learn to know them. I trust you have walked with them, talked with them and learned something about the fine citizenship of Missouri; and yet I want to say to you that we are not making any claim to having a better citizenship than any other state in the Union; and all of the effort that is being made by this organization

and by the state taxing organizations, for the purpose of raising the revenues or distributing them fairly, should be for the one purpose of building a greater citizenship of the future.

CHAIRMAN FAIRCHILD: Governor Winter, in behalf of the conference, I thank you. And now again I have the unhappy duty of announcing the absence of a distinguished guest. Senator Allen has also been prevented from being with us, but again I am able to rejoice in a substitute who comes in his place. Sometimes you know the second-string players prove to be just as good as the varsity, and I am sure it will be so in this case.

Most of you have, I trust, been privileged to drive through the beautiful country-club residence district of Kansas City, an experience which must have been an eye-opener to you all.

Our next speaker is associated with Mr. J. C. Nichols, the genius and magic worker of this great development. He has phrased his own subject in these words: "Slow down the band wagon, the elephants cannot keep up."

I take great pleasure in presenting Mr. H. Merle Smith.

H. MERLE SMITH: Dr. Fairchild, distinguished guests and fellow townsmen:

It is a great honor to sit at the table with the unquestioned leader in the academic field of taxation and of public finance, your distinguished president. Just beyond him sits Mr. Graves, an honorable gentleman, who is one of the tax commissioners of the state of New York. A little further to the left sits Clarence Smith, who ranks high in this field of thought and endeavor. There also is the scholar-banker of our city, Mr. Thornton Cooke. Just beyond is another scholar, a gentleman who happens to be the head of a great public institution, in the nature of a private school for boys, Mr. Charles W. Bradley. And, at either side the experts, and out here (indicating microphone) sits the public or such of it as happens to be listening in.

May I say to you, that as a citizen of Kansas City I claim the right now, as this convention nears its close, to express our appreciation of your presence in our midst. We are soon going to receive the bluebloods of the animal kingdom at the American Royal Live Stock Show. It is a greater pleasure to receive some fine and cultivated human beings. And, to the extent that we may learn from you or share with you those impulses, emotions that may be worth while, then I trust your meeting with us shall have been to your satisfaction as well as ours.

We are just at the close, Mr. Toastmaster, of a very interesting summer. For the children, the intrepid boys and girls, it gave us tree-sitting. For the unemployed and determinedly idle men, it gave us miniature golf; for the ladies it gave us a lower hem line; and

for the benefit of all of us it gave us the "great sag." I heard reference to Hoover prosperity made at this banquet table tonight, and I assume, therefore, I will not be offside, now that we have employed the football figure, to make further reference to it.

Regardless of what the remedy for present business conditions may be, I think the fact can be pretty definitely and rather easily established that the pessimist has the right of way.

I find the wisecracker in our midst today, and he expresses his sentiments in words such as these. You say to him, "Business is looking up." He says, "Sure, it is flat on its back and peeking at the stars."

There is another wisecracker running around, for example, who unburdens himself of sentiments like these. You talk with him about the conditions of things, and he greets you with such salutations as this: "How is business, you liar?" As a simple prescription for the gentlemen of such persuasion, may I offer the following from the "Line o' Type" or "Two columns" of the *Chicago Tribune*:

Every one's scenting a panic,  
Every one's singing the blues,  
Still whenever you go to a picture show,  
You stand—till they're through with the news.

The country has gone to perdition,  
We'll have bread lines before we have snow—  
But try to buy seats for the World Series games  
And see what you get for your "dough."

We're all goin' to starve—that's decided.  
A job simply cannot be bought,  
But when Sharkey fights Who's It, just try to get in  
And you'll see what "hard times" we've got.

The guv-er-ment's got to do something,  
Or we'll fall in our tracks and we'll lay—  
Yet the lady, by gosh, who does up our wash  
Brings it back in a nice new coupe.

So I think all this talk of a panic,  
Of the country about to go "blooey,"  
Between you and me, and the old apple tree,  
Is a lot of old-fashioned "hoo-ey."

There is another gentleman in our midst who is the statistical expert. He can prove to you by anything from plain addition to differential calculus that the country has gone to a very warm climate. May I quote for his benefit a statement from another

distinguished student of public affairs, the Director of Public Relations of the Harriman National Bank and Trust Company of the city of New York.

"With 7 per cent of the world's population, the United States consumes 48 per cent of the world's coffee, 53 per cent of its tin, 56 per cent of its rubber, 21 per cent of its sugar, 72 per cent of its silk, 36 per cent of its coal, 42 per cent of its pig iron, 47 per cent of its copper, 69 per cent of its crude petroleum and over 23,000,000 of the 30,000,000 running automobiles.

"It operates 60 per cent of the world's telephone and telegraph facilities, 33 per cent of the world's railroads, and produces and consumes more than 35 per cent of the world's total electric power.

"This nation embraces 6 per cent of the world's area, but it produces 70 per cent of all the oil, 60 per cent of the wheat and cotton, 50 per cent of copper and pig iron, and 40 per cent of the lead and coal output of the globe. It holds about one-half of the world's monetary gold and two-thirds of the total banking resources of the earth.

"While its population was increasing 60 per cent, its industrial production increased by 300 per cent. The purchasing power of the 120,000,000 citizens is greater than that of the 500,000,000 Europeans and is much greater than that of the more than a billion Asiatics.

"On the other hand, we would seem, by the pessimistic sentiment prevailing, to have about 1 per cent of the courage, three-quarters of 1 per cent of the nerve, one-half of 1 per cent of force and power, and one-quarter of 1 per cent of backbone of almost any one country. England, for instance, is struggling along, carrying gigantic debts and with millions of unemployed, without a murmur of complaint.

"Merely being burdened with an incompetent, incapable Senate gives us no reason for lamenting over our condition. Should we give as much care in attending the coming primaries and selecting proper, intelligent representatives for Congress as we do in selecting even our golfing and fishing outfits, that, too, may be remedied.

"Fundamental conditions in America are safe and sound."

There is an English gentleman by the name of Herbert N. Casson who came to the United States this summer and toured the country for about two months. He returned home and addressed this message to American business men:

"You are depressed. You think you are crippled. You are afraid of the future. You are full of fears.



"You have half the gold of the world and half of the machinery and most of the automobiles and all the skyscrapers.

"You have the greatest home market in the world and the largest corporations that the world has ever seen.

"You are ruled more by ideas and less by tradition than any other people in the world. You have usually done what you thought you could do.

"How can it be possible that a progressive nation of 120,000,000 people can be wrecked by the speculations of a little handful of fools in Wall Street?

"The prices that were forced too high had to come down. Today all the prices are too low.

"There is now a golden opportunity for every man who has eyes to see it.

"Dollars are now being sold for thirty cents. Practically every security in the United States is now being sold at less than its value.

"The way to create a fortune is to buy from pessimists. Pay your money and take the risk.

"Frick started his career by buying coke ovens in the slump of 1873. Carnegie made \$300,000,000 by buying steel plants in slumps.

"Hundreds of fortunes have been made by buying from pessimists. Ye gods! What a chance there is at this moment!

"In five years from now, most American business men will belong to the 'I-Wish-I-Had-Club.'

"Then it will be too late to buy a dollar for thirty cents. The opportunity will be gone.

"When a horse balks, the balk is in his head not in his legs. He moves on when he thinks he will.

"And when an American business man is depressed *the slump is in his head*. There is nothing serious to prevent him from making money if he thinks he will.

"When fear rules the will nothing can be done, but when a man casts fear out of his mind the world becomes his oyster.

"To lose a bit of money is nothing, but to lose hope—or lose nerve and ambition—that is what makes men cripples.

"The silly depression has gone on long enough. Get rid of it. RISE AND WALK."

Charley Barr, of Holyoke, Massachusetts, said:

"Leaders lay out their plans and follow them. They are not deflected by temporary events. Through boom and through panic they go on their way of leading. Business men who are reckless in a boom and paralyzed paupers in a panic do not

have the stuff of a development in the country. They are subject to hysteria. It is not boom and panic that is injuring business so much as mere lack of sense. They are their place. They are going to. We should be prepared to meet them are like a chicken just after axe-ation."

None of the remedies that are suggested by the country doctor are a good deal like that submitted by an old country doctor to a patient on a farm. An old gentleman was sick. His wife called the doctor, in town, and he came out in his buggy or gig, and proceeded into the sick room. She was very apprehensive and said to the doctor, "Doctor, we have to do something quickly because I am afraid if you do not Hiram is going to die." He said, "I will look him over."

He did not feel his pulse, he did not ask him to stick out his tongue, he did not ask him to open his mouth, he did not take a look, and then gave him a great big white pill, and the old lady said, "Doctor, I guess you figured out what was wrong."

"No, I don't know," said the doctor, "but this great big pill will give him the fits, and I am hell on fits."

Not from the position of an expert but from the viewpoint of a reporter, may I propose to you what I think has been happening?

The economic strategist of the present administration is none other than Mr. Julius Klein, who is now midway between New York and Paris. It happened that Mr. Klein came out in the middle of the depression, and the first thing he did was to say that business would be out of the woods in October because the elections were to be held the first Tuesday after the first Monday in November. It would be highly desirable from the point of view of the reigning political party to have public confidence restored to the point where there would be a return of prosperity. For a number of months the strategy of the minority party has been directed towards creating the impression that we never can be quite right unless there is a return of prosperity. It is a strategy of the minority in 1932. The best way to bring that about is to inject into the constituency of the United States Congress enough who are now in the minority to make a sound obstructive movement to any so-called Hoover program. Every man who expects to feed at the political pie-counter, every man who ever did or who ever wants to become a favorite son of the American people, is sowing seeds of dissension and dissatisfaction. And, who are listening to him? Those who prefer to think prohibition was a mistake, because their own thirst has been materially unministered to. Others who are responding are the farmers. I have been told that for the last three decades they need to be relieved, but they would not recognize relief if they saw it. I know because I was a farmer



industrial country, the agrarian and agricultural period is over." And what was the result of it? Business had a reversal. War contracts are cancelled. Our whole munitions-producing days came to a stop. The Wilson program was founded on the making of future wars impossible, which made munitions out of the question.

Do you recall how those favored with war contracts began to cry when those orders were cancelled? Of course you do. And the Democratic administration very sensibly and very ordinarily and effectively adjusted those conditions and saw that very few businesses that had conducted themselves properly, absolutely did fail as the result of war contracts.

This thing happened: It was necessary to convert the production that we had for those artificially stimulated days into the thing that was to follow afterwards, in 1919, and from then on. And what took place? Well, we of course had certain big demands that had been stopped. There was a shortage of housing, which gave stimulation not merely to the building of residences, commercial structures and industrial plants, but to public works as well, because there had been none. It was tremendously stimulating to the development of building materials.

What else took place? Wages had gone up so much that new demands and desires could be gratified by workingmen, small business men and large business men. And do you recall that that was the time the jazz parties started? The carrying of hip flasks became something in the nature of a badge of social acceptability; women began to smoke in public; grandmother bobbed her hair and raised her skirts; and the kids began imitating the old folks—and then we inherited a social problem; colleges began to build stadia, and football became more or less of a semi-professional pursuit.

Well, the band wagon was speeding up, and as the wee boys so frequently say, "And how!"

Now, the interesting thing that developed, as the historian fifty years from now, I am inclined to think, will write it, was this: When the change-over occurred from the munitions-producing days of the war to the days of production that followed it, there arose a very acute problem. What could you make with your enlarged industrial plants? What could you put your employed personnel to doing that the public would need? Russia went out of the world markets because of a collapse of her financial structure. Some of the other countries abroad, that were unproductive—and you know who they were and what they were—exercised for the time being a demand upon our exports, and it was not very long until a number of sound-thinking economists pointed out that we were rapidly changing over from a domestic to an export market, not only in an economic respect but also in a manufacturing respect; and we began to fight for trade in South America, along the Caribbean;

and we undertook to stimulate our sales across the Pacific, in Asia; and so it went on.

Morgan & Company knew the answer and undertook to develop markets to provide an outlet for the sales of our merchandise. The record shows it. It is not a debatable question today.

In 1923 purchasing began to slow down a little bit because production was catching up with the demand; and, Mr. Toastmaster, in 1923 we invented and offered the American public three things, to make possible the consumption of the output of our factories when running at 100 per cent speed. They were these: High-pressure salesmanship, unlimited advertising and installment selling. And what was the effect? The high-pressure salesman began going from door to door when the public did not come into the store to shop. That was the period in which the Fuller brush, the Hoover suction sweeper, and Real Silk hosiery began to go the limit. And here in the cities were gentlemen who complained, and wanted to pass a law to keep them from doing it, but you could not do it for the reason that they only showed the prospective customer a sample, sent the order in to the factory by mail, and the article came back later. Of course, the salesmen were making social calls. The business men along Main Street were sore about it but could not help themselves.

And another thing happened about that time. It began to be apparent that the drive for the elimination of needless sales costs in distribution was to get some serious attention, and the chain store was the result. We heard over the radio as recently as last fall the vaporings of an isolated gentleman in Louisiana who was undertaking to put backbone into a defunct institution by making an appeal to bigotry and prejudice. Yes, he was going to eliminate the chain store. Isn't it an economic fact, Dr. Fairchild, that if it is possible to give the public merchandise of equal or better quality at a reduced price it is economically sound? If the law of the herd or the survival of the fittest does not make unprogressive and inattentive business men revise their methods of doing business, they are going to lose out, and they should.

I am not making a plea for the chance of pointing out what you probably have been thinking about many a time, but another thought, and it is this, that you cannot pass a law to save a sinking ship.

Well, the rest of the picture is this: Beyond the question of high-pressure selling came this question of unlimited advertising, to get quick national distribution, with the result that in 1929, \$100,000,000 were wasted in profitless advertising or unproductive advertising, and the public paid the bill.

Another thing that was interesting is this general question of installment selling. I ought to know the answer to it because I have been duped, or I tricked myself, into purchasing things I had no

business purchasing; but play while you pay, as the radio dealers say—and what is the result?

One of the great costs of the financing of motors and radio sets on a deferred-payment basis is the high cost of collection. I talked in New York City, in August, to a gentleman who said, "Smith, in my opinion, in ten years, installment selling will be gone, with the exception, possibly, of the homes in which people live."

Why is that true? Because a simple thing has happened, and this is the thing and my subject.

How many of you have lived in country towns as youngsters? May I see your hands? How many of you saw the parade when Sells-Floto or Ringling Brothers came to town? Isn't this about what happened? The parade started from the show ground in that blighted area off toward the slaughter house, where nothing ever happened except bad odors. Now, isn't it true that the parade was organized and was all ready to start about high noon—about 12 o'clock—and the parade was all lined up, and the different units were sandwiched along the different alleys so that when the head unit stepped off they could fall in, all like the joints of a detachable snake.

At the head of every parade I have ever seen, or heard about, rode a gentleman on an albino or pinto horse; he had a cockade hat, a red, brocaded coat, purple panties and black shiny boots, and had a trombone that was blown as he rode up Main Street. After him came the band wagon.

The parade route passed from that blighted area, first, into a nondescript residential section, then into a better residential section, and then came to the Methodist church, and after it passed the Methodist church it reached a nondescript commercial section, and then it came to a complete stop in the center of the principal business corner. On one corner was the First National Bank, on another was the harness shop, on another the post-office, and on the other the hardware store.

The parade was all organized and ready to go, and just about the time the head of the parade reached the Methodist church something happened.

Now, you know that the band wagon was painted red, with yellow wheels, rubber tires. You also recall, I assume, that it was pulled by six horses, hooked up into three pairs. Upon the driver's seat, which was below the one on which the bandmen sat, there sat the driver. He had a cockade hat. On the right was the other driver with two pairs of lines. When the parade was moving into the main street he cracked his whip and it upset the lead team. Then, on the back of the band wagon sat the trombones; behind them the tubas, and the altos, then the cornets, and then the clarinets and the piccolos, and the one fife. On the back were the drums. After the

whips were cracked the spirited horses began to prance, and the band began to play until it resounded and made the welkin ring. About the time they got up even with the Methodist church a gentleman on a plain bay horse, not uniformed, came up from the rear and put his hand up to his mouth and said, on the offside, "For God's sake, slow down the band wagon." And why?

Because the man on the bay horse for the last five years has been Calvin Coolidge. Every go-getting, high-pressure business man thought he was suffering from varicose veins and dementia materna combined. But I think that keen little gentleman from Northampton has been right long enough to have gained approval where he once had opprobrium. To some gentlemen he said he did not choose to run for office, and all you could do for him was not vote for him.

The parade has pulled apart. What pulled it apart? In every town there are the pace-setters. We will say they are Horatio Jones and his wife Henrietta. Just a little farther down the line is another couple, Harry Jones and his wife Mary. They are imitating the first couple. And just a little bit farther down happen to be Bill and Kate, and they are imitating the Harry Joneses.

We undertook to do what our English cousins across the Atlantic call "to ape our betters." And the result of it is this: We have mistaken our desires for our wants, and we have mistaken our surveys for our needs. It is, I believe, sound economics to say that a man should not buy anything he does not need. If he does not want a thing he needs, he ought to see a salesman, because a salesman is only a man that helps him want the things he actually needs. But, a high-pressure salesman is a fellow who wants you to buy a better car than you can afford. He wants to belong to all the clubs in town, and play golf three afternoons a week when he should be working—and I know plenty of them and so do you.

The consuming public has been over-stimulated and over-aroused and bought things it could not pay for. A man is a prospect for anything only when he wants something and can pay for it.

Now, the thing I am getting to is this: I have contributed in a way, as one representing a great enterprise in its relations to the public, to the general breakup of the parade. Here is a thing that interests me particularly. Business, they say, is financed in the city of New York. That is true. It is hamstrung or encouraged by legislation in Washington. It is operated in most particulars, with the exception of flour, in Minneapolis, and steel, in Pittsburgh, and motors, in Detroit, from the city of Chicago. Up in Wall Street some gentlemen have been greatly disturbed by the wide distribution of shares of certain businesses, as the original financial setup was based on producing power. The parade and the speed with which the band wagon was moving stimulated the desire on the

part of good, honest common people to want to get rich quickly; and what did they do? Well, they watered the product, so they say, and within the last twelve months I can recall having read a public statement by a man who ought to have known better, that the day had passed when securities would be based upon their productive power, that the thing that would determine their value would be what the public wanted to pay for them.

Well, the unharnessing occurred about a year ago now, and with it went the hopes of everybody who expected to sit on the band wagon, but a lot of things have happened in the meantime and one of them, I am inclined to think, is a new soberness, a new seriousness has appeared within this period—and this is of interest to you because it has already been discussed on the convention floor, but it has been so impressive to me, for I have known it for a while, that I give it to you again. In a state not very far distant is a public high school, built at a cost of \$60,000; an enthusiastic board of directors, who were on the band wagon and did not realize there were elephants behind, proposed to bring out a bond issue for the purpose of getting money enough to build a \$150,000 addition to the original structure. Well, the thing centered on a contest over the election of a new member of the board, the treasurer, a business man, if you please. He made a good race. The largest turnout for an election in the past had been 120; at this particular election, the first in that series, 1200 turned out. I think, Governor Winter, that might indicate one way by which you can increase the interest on the part of the electorate—tell the truth of what is going on in language so plain that anybody can understand. In other words, do not use expressions that confuse the popular thought; tell it in language that can be easily understood, the kind in which I am trying to tell it to you, for this story was invented to answer the question for this friend of mine—what is the truth about it?

What has happened in this one instance? They all elected a business man, the treasurer of the school board. They did make an addition to the building at a cost of \$3,000. As a matter of fact they cut the levy from 72 mills to 61 mills; they increased the pay of every employee of that board from the janitor up to the principal, and they ended the year with \$6,000 in the bank. Before they had always had a deficit.

Out in the country-club district of Kansas City lives a gentleman who has five sons and one daughter. He told me last week that he had an income that was one-third of what it was in 1924, and he said, "I have more active cash in the bank than I have ever had in my whole married life, but I am not letting go of it."

I saw a statement from New York the other day, from a man who knows I suppose, who said the undistributed surplus of the great corporations, in other words frozen money, was one of the



things retarding the forward movement of business and commerce. I do not venture to say he was right or wrong, but I do know this, the band wagon has slowed down, and the elephants are catching up. Your well-conducted motor caravans over the states all know perfectly well that no parade moves any faster than the slow-going element in it. You realize, I am sure, that one of the great difficulties with a lot of us who went into business and professions during these years after the war, was this: We thought it would always last. We did not remember the bankers' panic of 1907 or the upset of 1873. No, we thought it was all going to be sweet and lovely; and many an ambitious aspirant for the public service has gone out and told people he would give them things they could not possibly have, unless they bankrupted themselves getting it. It is significant that cities are slowing down on the bond-issue method of improvement, in some cases, and yet we know from experience that those cities that do not give a part of the responsibility for their public improvement to generations yet to come, never grow. Cities cannot be on a cash basis altogether. Development seems to be the progress of American individuals, not the government itself, but it has to be laid on a rather intelligent basis, otherwise there is not a Chinaman's chance.

I seem to find in this distinguished gathering not a desire to put on the brakes of the band wagon, but to make it go at a slower rate of speed, that will make it possible for the great procession that we call Amercia to move on serenely but in dignity to that distant time when we shall have justified the thing that inspired the American founders to experiment in democracy itself. I have a right to expect, I think, as one of the younger Americans, that through this cloud of pessimism that has been spread about there will come forth a better wisdom. Those who know better have been exposed to the truth, and yet blighted viewpoints and perverted angles of vision have prevented them from seeing the patent facts.

I leave you with regrets. I have exceeded my time. If anything I have said has been in bad taste and you resent it, I trust you will overlook it. They say a gentleman is one who never offends another intentionally. If I offended you, I probably meant to do it!

I think we are always going to have real salesmanship to stimulate the dissemination of ideas and products, but we will begin telling the truth.

Out on the Pacific Coast a retail store this summer put on what it called its White Elephant Sale. This store ran the following copy:

"Kid gloves, most of them white, though it is hard to tell as they are so soiled—25 cents a pair.

Men's suits, shop-worn and out of style; the price will make you color-blind—\$4.00.

Lisle hose. If they are not sold they will be sent to the Orphans' Home—15 cents.

Blouses. Some blouses come back in vogue but these never will—50 cents each.

Fur-trimmed coats. They are three years old, and they tell their own story—\$5.00."

Before 10 o'clock that store sold not only all its cheap and out-of-date stock but \$50,000 worth of other merchandise as well, and they had to call out the police reserves; it was so rare to find an advertising man telling the truth.

We probably will always have installment selling. I said to a man whom I believe to be a good judge, because he has handled \$27,000,000 worth of installment accounts in about four years—"Lacey, tell me, what is it this business of yours has taught you." He replied, "The most disastrous thing in the world is to spend money before you get it." He is the man who said in ten years from now installment buying will be gone.

In a few moments the gavel will have fallen on this meeting—happy, I trust, for you, and I assure you inspiring and stimulating for me.

Maybe all this is old stuff to you, but at least appropriate to the title for those who said you came from the country town; and I think our interests are mutual. I accept the idea that what could be true in the Empire State is not true in the "Show Me" state; or what is true in either of those would not be true of the great old Keystone State from which some of my forbears came. I cannot see how it is best to have one set of policies accepted in the Pacific country and another accepted in the Middle West and another down in the canyons of Wall Street. This moment I picture some gentlemen sitting in the canyons in that neighborhood, with baby tears on their faces, looking out toward the Atlantic, trying to determine what is wrong west of Pittsburgh.

My prediction is this, we are finally going to nationalize our ideas, we are going to break down those invisible barriers of misunderstanding—that lack of acquaintanceship, the lack of relationship and fellowship.

I thank you very much.

CHAIRMAN FAIRCHILD: This ends that part of our program which is being broadcast. We can now come down somewhat from our dignity and proceed with less formal matters. I seem fated always to make announcements, and I find I can not even escape tonight.

The local committee is very anxious to learn how many are intending to attend the bridge luncheon at the Kansas City Country Club tomorrow afternoon. The busses leave this hotel at 12 o'clock. If there is some member of the local committee who will count, I will ask all those here who expect to attend this function to raise their hands.

I hold in my hand a little piece of pasteboard which was found somewhere in the environs, which reads as follows: "Back Bay Auto Park, St. James Avenue, Berkley and Stuart Street—B22103." Possibly some one is more likely to ride home in his car if he calls for this tag.

Everybody here knows Mr. Thornton Cooke, and I have no necessity of introducing him to this audience. I have only to say that he has a pleasant function to perform now. With that I will turn the meeting over to his tender mercies. Mr. Cooke.

THORNTON COOKE: Mr. President, Ladies and Gentlemen: My function is to give out the golf trophies, and if you will excuse me just a moment I will fetch them.

(Distribution of golf trophies by Mr. Thornton Cooke)

CHAIRMAN FAIRCHILD: This closes our evening's program, and I wish you all good-night.

(Adjournment)

## SEVENTH SESSION

THURSDAY, OCTOBER 23, 1930

9:30 A. M.

### ROUND TABLES

FOUR GROUP MEETINGS CONDUCTED SIMULTANEOUSLY

#### THE BANK TAX PROBLEM

HENRY F. LONG, Commissioner of Corporations and Taxation of Massachusetts, Group Leader.

CHAIRMAN LONG: As you may see from the program, there are several round-table discussions now in session. In laying this bank-tax problem before the conference in this way, it was the thought of the program committee to have the various phases of the national bank-tax problem presented by those who seemed to be most capable of presenting that particular side of it. Being from Massachusetts, one of the states that has the income-tax method of levying assessments on national banks, I will present to you a brief résumé of the situation in that commonwealth. I think I should say at the beginning that it is hoped that very general discussion will grow out of these papers.

I come from an income-tax state, and speaking on bank taxation based on income, I speak more from the academic and hopeful point of view than from the practical solution.

Long prior to the Richmond Decision, Massachusetts had availed itself of the power granted by Congress to tax the shares of national banks. Under an enactment of 1873 the tax was collected through the bank at the rate prevailing in the town where the bank was located, but the proceeds were distributed to the towns where the owners of the shares dwelt, the commonwealth retaining the tax paid on account of non-residents. During this period intangible and tangible property alike were taxed at the local rate under the general property-tax law. After a constitutional amendment had been adopted in 1916 an income tax was substituted by Massachusetts for the previous *ad valorem* tax on intangibles. One national bank thereafter raised the question of the constitutionality of the tax on bank shares, on the ground that under the Income Tax Act of 1916, other moneyed capital was now taxed at a lower rate than

shares of national banks. Other banks continued to pay, however, and the situation did not become critical until the Richmond Decision. With that decision the situation became acute and it was necessary to refund money to banks and enact a new law. In 1923 the immediate exigencies were tided over by an enactment supported rather by an understanding between representatives of the banks on the one hand and the commonwealth on the other hand than upon any supposition of constitutional validity. This temporary make-shift retained the tax upon shares but gave the banks the option of electing to be taxed upon their net income at a  $12\frac{1}{2}\%$  rate. Net income as defined excluded interest from obligations of the United States. Under the provisions of this law the annual revenue from the national bank tax dropped from about  $2\frac{3}{4}$  millions to considerably less than a million dollars.

As a result of a study of bank taxation by a special commission, Massachusetts totally abandoned the attempt to tax national banks upon their shares and substituted a tax based entirely upon net income and "at the rate assessed upon other financial corporations; provided, that such rate shall not be higher than the highest of the rates assessed . . . upon mercantile, manufacturing and business corporations doing business in the commonwealth." The rate was determinable by the commissioner of corporations and taxation subject to appeal. Under the first year of operation of the law (1926), the commissioner determined the rate to be 6%. The yield from the national bank levy diminished still further to only a little over half a million dollars. Moreover the special commission had felt that protection of trust companies organized under the laws of Massachusetts and engaged in a competing business demanded that they should no longer be handicapped by a tax more onerous than that imposed on national banks and had recommended that they be included under the provisions applicable to national banks. The legislature adopted this view and consequently not only did the revenue from the tax on national banks shrink but also that from trust companies.

Under the business corporation excise law in effect prior to the 1925 enactment, interest from federal obligations was excluded from taxable net income. Unfortunately, as matters developed, the legislature, in an effort to derive as great revenue as possible under the provisions of the Act of Congress (U. S. R. S. 5219) permitting a tax upon net income, adopted a definition of net income which included such interest both in the case of banks and in the case of business corporations. The result was the now famous Macallen case with which you are all familiar and a still further shrinkage in the tax yield from national banks. This constitutes the last chapter of real importance in connection with the history of the Massachusetts situation, although a recent reclassification (1930)

of business corporations now permits a slightly higher rate under the National Bank Tax law.

To appreciate the present situation in Massachusetts, at least some understanding of the general system of taxation in Massachusetts is essential. The so-called proportional clause of the state constitution requires uniformity of rate for property taxation. The commonwealth derives its tax revenue principally from three major sources. First: A property tax upon real estate and tangible personal property locally administered and at varying local rates averaging about twenty-nine dollars per thousand and a motor vehicle excise. Second: A classified personal income tax levied pursuant to the provisions of a constitutional amendment. This comprises a tax upon business income at  $1\frac{1}{2}\%$ , a negligible tax upon annuities, a 3% tax upon gains from dealings in intangibles and a 6% tax upon certain types of interest and dividends. Third: Franchise and excise taxes upon various classes of corporations measured either by income or corporate excess. The excise of business corporations is measured in part by income and in part by corporate excess. These being supplemented by excises measured by the use of gasoline, on inheritances, insurance companies, savings banks, and sundry others.

What then are the possibilities for Massachusetts under the existing Act of Congress? If Massachusetts attempts to lay a tax upon the shares of national banks, it is at once confronted with the necessity of keeping the rate as low as that imposed upon other moneyed capital in the hands of individual citizens coming into competition with the business of national banks. This involves the recognition that at least certain such capital is now being taxed under the provisions of the income-tax law. Either such capital must be segregated and taken from the provisions of the income-tax law in order to place it upon a parity with bank shares or else the rate upon bank shares must be so low as not to exceed the burden upon other moneyed capital as taxed under the income-tax law. To proceed in the former method involves all the difficulties and perplexities incident to defining what "other moneyed capital" means. It may also mean that under the proportional clause of the Massachusetts constitution the rate imposed upon bank shares and other moneyed capital could not be less than that imposed upon other property under the general property-tax law. It is extremely doubtful if the legislature would consent to the imposition of such a rate. To proceed under the method of taxing bank shares at a rate not in excess of the burden imposed upon other moneyed capital under the existing income-tax law involves again a difficult question of determining what that "rate" is. It further lays the law open to the contention that the proportional clause of the state constitution is violated on the ground that the rate on bank shares is less than

that upon other property. The excuse that this results from the imposition of limitations imposed by the federal constitution is scarcely tenable in view of the fact that Congress has now provided other means of taxing national banks which are permissible under the state constitution as well as in conformity with congressional enactment. Moreover, such a tax would not be likely to yield a very substantial increase over present revenues. Hence the way to salvation for Massachusetts does not appear to lie along the path of a tax on national bank shares.

Massachusetts already includes dividends from national banks located in other states under its income tax. To add the dividends of such banks located in Massachusetts and abandon any other form of taxing national banks would probably not yield even the present amount of revenue.

For Massachusetts to lay a direct tax on the income of national banks and trust companies would doubtless require a constitutional amendment.

This brings us to the only remaining avenue—a tax according to, or measured by, net income, and this method is what has in fact been adopted. There are several reasons, however, why this system has not proven altogether satisfactory. The tax yield is negligible as compared to the former tax yield, and even though the tax previous to the Richmond decision imposed too great a burden, it still seems to many that the present tax is too low. It further involves the ascertainment of a rate each year. What the rate imposed upon "other financial corporations" is—indeed what constitutes "other financial corporations" under the Massachusetts system—is more or less of a moot question in spite of such light as has been thrown upon it by an opinion of the attorney general and a decision of a single justice of the state supreme court. Moreover, there is the further limitation of the rates imposed upon the different classes of mercantile, manufacturing or business corporations, whatever they may be. To increase the rate of such corporations in order to increase the yield from national banks is too much like making the tail wag the dog.

It would seem then that Massachusetts must content itself with the present inconsiderable revenue from the national-bank tax or it must seek relief in congressional enactment.

In considering the recent development of congressional enactment with respect to national bank taxation, it is interesting to go back to the situation at the time of the Richmond decision. The intent of Congress then, as interpreted by the courts, was directed solely against injury to national banking interests through discriminatory taxation which favored competing interests. Comparative rates upon non-competing enterprises were not involved. Years of experience seemed to indicate that limitation based upon such com-

parison was not essential for the protection of the national banks. National banks seemed to prosper without it. The term "rate" as used in Section 5219 U. S. R. S. was liberally construed by the courts and indicated the extreme latitude which would be allowed as to methods of imposition under that section prior to the amendments following the Richmond decision. It may well be questioned whether the banks have not gained more by way of strategic position from these amendments than have the states whose agitation induced them. We now have pretty well engrafted among the limitations, the principle of comparative rates with no-competing business not thought of prior to the legislation following the Richmond decision. The limitations appear to be somewhat complicated and to some in danger of becoming more so. Some say, should not the effort be made toward simplification and a return to the basic principle which obtained in the original congressional enactment. In those days taxation was largely based upon property and more simple than today, but the basic purpose of protecting national banking interests is the same. Cannot the diverse methods of present-day taxation be recognized without dragging in a comparative test non-essential to the protection of national banks as the history of national bank taxation has adequately demonstrated? And is it necessary for Congress to deal specifically with each diverse method of taxation? While the banks may have gained strategically as a result of amendments nominally extended to relieve the states, it seems that litigation and further agitation must inevitably attend insistence upon the retention of that strategic position. Upon the other hand the states must recognize fully the soundness and the justice which underlay the original concept of fostering national banks through federal protection against discrimination in favor of state or other competing banks. Cannot this concept be expressed in reasonably certain and concise language? There is our struggle and to date our success is not marked. Certainly, other principles of far greater fundamental import have been thus expressed both in constitutions and in legislation. Situations frequently arise which do not lend themselves to explicit treatment. The attempt to give expression to a basic principle in itself simple as applied to diverse and complex conditions through legislative enactment so specific as to take care of every possible contingency is impractical and not infrequently frustrates its own purpose by adding complications wherein the simple basic principle is lost sight of. Why, some say, cannot the states be permitted to adopt those methods of taxation best suited to their needs, incorporating therein such method of bank taxation as seems meet, so long as the basic principle is not violated. The Fourteenth Amendment to the federal constitution is brief and yet probably no other statement in the world affords greater protection to property. It may be said



that interpretation of the Fourteenth Amendment has been attended by litigation resulting in decisions voluminous. But had the attempt been made to deal specifically with all the cases that might arise under the principle involved in the Fourteenth Amendment, is it likely that the attendant litigation would have been less? Indeed could the human mind ever have compiled such a document? In other words, there are instances where a situation is so complex that it is wiser to state the basic principle in unmistakable terms than it is to endeavor to compile a compendium of rules for particular, diverse and constantly changing conditions; and it would seem the national bank situation presents a case for the application of such treatment.

The speakers who are to follow me do not represent the income-tax-paying states, and for that reason I took advantage of your courtesy by giving that which I have given, as the side of an income-tax state. You have the program before you, but it might be well to state that we have undertaken to split up this round-table discussion by having the banks present their side of the case through the very able chairman of their taxation committee; and then to have one of the states that has not employed the income tax, through Mr. Blodgett of Connecticut; and then have Mr. Randall of Kansas; and, fourthly, Mr. Jensen of Kansas, who will give the academic side.

The idea of this whole round table is set up to stimulate your thought and interest and to give you the various aspects of the case.

We shall have the very great pleasure and honor of listening first to Mr. Thornton Cooke, of Kansas City, who is chairman of the committee on Section 5219 of the American Bankers Association. He did not know the further honors that were going to be conferred upon him. Since this program was prepared the American Bankers Association has had a conference at its annual convention at Cleveland, and it has endorsed, as it might very well have done before, perhaps, all that Mr. Cooke and his committee have done, and has reappointed him as the chairman of that committee. So, Mr. Cooke now is the chairman of the special committee on 5219 of the American Bankers Association. Of course, many of you have had the pleasure of meeting Mr. Cooke since you have been here. Many of you have seen him in this tax controversy that we have had. So I do not need to tell you about the very pleasant and talented gentleman to whom you will now have the pleasure of listening. I have the honor, therefore, of presenting to you Mr. Thornton Cooke of Kansas City.

## TAXATION—THE POSITION OF THE BANKS

THORNTON COOKE

Chairman, Taxation Committee of American Bankers Association

The bankers appreciate the opportunity of explaining to this distinguished body their view of taxation. Usually—not always—sincere, informed men can agree upon the questions between them; and I am glad to tell you that the bankers and the representatives of the Association of States on Bank Taxation agreed in May upon a bill. It is now pending in Congress, H. R. 12490, and in the course of my remarks I will outline it.

May I say first, however, that, contrary to what I know some of you have supposed, bankers do not seek a privileged position respecting taxation. There are individual exceptions to this statement of course, just as there are in every walk of life; but the members of the American Bankers Association know, and know well, that the problem of bank taxation will not be settled apart from the problem of taxation as a whole.

We know, for instance, that the three, four or five mill taxes some of the states impose upon intangible property, in order to bring such property upon the tax rolls, are not enough taxes for banks to pay; and the bill I shall explain will permit the taxation of national banks on a parity with other corporations, notwithstanding rates on intangibles are lower.

We know, also, that the total amount of revenue to be raised by states and by local taxing bodies is not coming down; it is going up, because of the vast expense of public administration under the conditions of modern life.

It is true that in many states it will be possible to get more for the taxes we pay. This can be accomplished through budget procedure, provided the budgets are constructed by the executive department of the state. Whatever is saved in budgets, however, will be absorbed in new, desirable expenditures. Our tax committee long ago found out that the way to study taxation was to approach it from the spending side, and concluded that while, in many jurisdictions, tax money could be spent more efficiently, the aggregate of taxes could be reduced only temporarily if at all. The tax-raising question is, then, the question of how to distribute the burden.

What part of the financial burden of public administration in the states should be laid upon the banks, and how should it be apportioned among them? As to national banks, Congress has limited you to some one of four methods. In these remarks I scarcely distinguish between state and national bank taxation, because the latter will usually limit the former. You may tax the shares, provided you do not tax them more highly than you tax competing moneyed capital; you may tax their income; you may tax their

dividends; you may levy excises upon the banks according to their incomes. If you use the income or excise methods of bank taxation, it is not, so far as the federal statute, Section 5219, is concerned, necessary that you use them for your other corporations. It will be sufficient if you so calculate that the income or excise taxes levied upon national banks do not take a greater percentage of their net income than is taken from your other corporations by taxes in all forms—except, of course, real estate which is separately taxed in both cases. Massachusetts, as you know, has for six or seven years maintained equivalency of tax burden between national banks and other corporations, although the other corporations pay taxes in several forms and national banks pay only the excise. You may tax both the incomes of banks and the dividends received by their shareholders, if you do the same as to your other corporations.

I have formed many warm friendships with public officials during my work on bank taxation the last six years. They have all asked me early in our acquaintance why Congress ever felt it necessary to attach conditions to the permission it gave the states to tax national banks and why it continues to do so. Historically, this is easily understood. The famous controversy between Andrew Jackson and the Bank of the United States was less than a generation old in 1864. In many quarters there was the same jealousy of the financial power of banks, and particularly of a national bank, or national banks, as in 1836. There was danger, real danger, that if permitted to tax national banks without federal restriction some of the states would destroy the new system within their boundaries; and therefore the Act of 1864 contained substantially the same moneyed capital comparative that stands in Section 5219 today. Other forms of taxation, which I have just outlined, are now permitted in addition to the share taxation originally provided for. I shall show that it is still necessary, in the public interest—for that after all is the test—for the federal government to retain a considerable measure of control over state taxation of national banks.

They are still essential agencies of the government. It is true that the nature of their agency has changed. The national banking system was organized to provide a reliable currency, but the amount it still issues is relatively small. Most of our currency is Federal Reserve notes; and the currency function is only one of the indispensable means by which the Federal Reserve Banks facilitate agriculture, industry and commerce.

How necessary is it that national banks should be, as they are, compulsory members of the system? Wouldn't they join anyway? Is this governmental agency anything real?

Let us examine the membership of the Federal Reserve Banks. On January first this year there were 8522 member banks. Seven thousand four hundred and three of these were national banks.

being, of course, all the national banks there were. There were only 1,119 state bank members, although there are about 17,000 state banks in this country. Of the national bank members, 2,050 had less than \$50,000 capital each; but only 244 state bank members were in that class. The small state banks won't join the System. They stay out because they can make more money outside. As non-members they don't have to carry reserves on deposit in the Federal Banks without interest. Through their correspondents, who are members of the system, they can get currency and rediscount facilities anyway. The small national banks wouldn't join either if they didn't have to do so. You recall the controversy over the plan of organization of the system. There was strong opinion for four districts instead of twelve, on the theory that the system should be one of concentrated power. There was expert argument that the system would function better if it had no members outside our three or four largest cities. Technically, perhaps it would have been so. Economically, the system might have been as efficient, although most of us don't think that. Practically, membership would have been highly concentrated, would have consisted only of large banks, if the national banks had not all been required to go in. And, whether or not the Texas cattleman and the Nebraska corn-grower would have been as well served, they wouldn't have thought so. Certainly, if the small national banks were not compulsory members, the Federal Reserve would be a different thing from what it is. I don't know what you think, but I think it is well that membership was made compulsory, and that because of it the national banks are beyond question more useful governmental agencies than they ever were.

Whether we agree on the policy or not, we shall agree on the fact, that so long as there is a national banking system Congress will attach definite conditions to the permission it gives the states to tax national banks.

As you know, other property has usually been under-assessed as compared with banks. I am speaking of states that tax banks at general property rates. I hesitate to use the word discrimination. That implies something consciously wrongful, and I think there has seldom been that intent, even if the use of different standards of assessment for banks and other property has been deliberate.

It is hard to avoid full-value assessments of banks. The book value of their stocks is readily calculated from the reports banks must publish in the newspapers several times a year. A banker can hardly tell the assessor that the value of his bank's shares is anything less than the figures given to the public as an inducement for deposits, and to the Comptroller of the Currency or the State Bank Commissioner as evidence of the bank's condition.

Often, indeed, of late years, banks' assessments have been more

than 100 per cent. There may be paper in the note case on which substantial loss is possible. The banker must either charge it off—and so advertise in his next public statement a misfortune which may perhaps never happen—or else pay taxes on a book value which includes the questionable paper. Of course the banker ought to make provision for the loss, but many a struggling little bank has kept on paying taxes, in effect, on bad notes rather than show its surplus diminished or wiped out.

Conversely, mercantile and business corporations are under-assessed. I confess I don't see how this can be avoided so long as the general property tax is used. There isn't, anywhere, any yard-stick available for measuring those assessments. Who knows, or who can find out, the actual value of a merchant's goods? Or a manufacturer's raw materials? One day I looked at the merchandise item included in the statement one of our bank's customers had made to us as a basis of credit, then sent down to the city hall to see how much of it the corporation had returned for taxation. It was 17 per cent. Later, at a meeting of the Clearing House Association, I told the incident, of course without names. My colleagues were astonished. Why, because the percentage was so small? No, because 17 per cent was, according to their observation, so large. I shall refer to this impossibility of determining the basis of assessment of mercantile, manufacturing, and business corporations when I explain the provision for assuring parity of taxation with banks, in the bill that has been endorsed by the American Bankers Association and by the Association of States on Bank Taxation.

The suggestion sometimes made that banks are favored because only their net property, represented by their shares, is taxed, instead of their gross property, has never seemed to me to be a contribution to the discussion. The gross property of banks is their loans, bonds, cash, and to tax these, say, two or three per cent would, of course, put them out of business at once. It is hardly argument, first to imagine a patently impossible situation, and then try to draw parallels with it or distinctions from it. It is a merely legistic theory, without practical possibility even as an illustration, casuistry not worthy of any sincere student or official. Nor shall I discuss the fact that most states tax the book value of shares instead of the market value. Any state that wishes can change over.

Now for proof of the under-taxation of other property as compared with banks. Addressing the Governors' Conference last year, Governor Byrd of Virginia observed that "Real estate is grossly under-assessed in almost every state of the Union." Professor Jensen, in an article from which Governor Reed quoted to you at the same meeting, admitted that "the bankers' grievance is real—as far as the general property tax is concerned."

In the report of the Kansas Tax Code Commission, submitted to

FIGURES FROM CORPORATION INCOME TAX RETURNS, SHOWING NET TAXABLE INCOME FOR 1926 REPORTED TO THE FEDERAL GOVERNMENT, CLASSIFIED (1) MANUFACTURING, (2) TRADE, (3) STOCK AND BOND BROKERS, (4) FINANCE, INCLUDING AUTO, RAILROAD AND TURNOUT, (5) OTHER FINANCE, INCLUDING BUILDING AND LOAN ASSOCIATIONS, (6) REAL ESTATE AND ESTATE BROKERS, ETC., (7) NATIONAL BANKS, (8) STATE AND PRIVATE BANKS, (9) BANKS AND TRUST COMPANIES, SAVINGS BANKS.

Forty-eight States and the District of Columbia

|                                                           | Number of Returns | Taxes              |                                                 |               | Interest on Federal, Municipal and State Bonds | Dividends Domestic Corporations | Total Net Profits | Total State Taxes | Percent Total State Taxes to Total Net Profits |
|-----------------------------------------------------------|-------------------|--------------------|-------------------------------------------------|---------------|------------------------------------------------|---------------------------------|-------------------|-------------------|------------------------------------------------|
|                                                           |                   | Net Federal Income | Not Practically all being State and Local Taxes | Income        |                                                |                                 |                   |                   |                                                |
| Manufacturing, Trade . . . . .                            | 54,000            | \$4,485,005,043    | \$402,017,702                                   | \$402,017,702 | \$8,707,200                                    | \$384,007,594                   | \$5415,328,405    | \$42,017,702      | 08.53                                          |
| Stock and Bond Brokers, . . . .                           | 71,253            | 1,162,008,196      | 144,215,105                                     | 144,215,105   | 11,210,810                                     | 38,746,020                      | 1,356,270,140     | 144,215,105       | 10.63                                          |
| Auto Finance . . . .                                      | 787               | 42,315,574         | 1,570,027                                       | 1,570,027     | 2,771,838                                      | 33,288,012                      | 70,055,351        | 1,570,027         | 01.68                                          |
| Other Finance . . . .                                     | 635               | 10,000,427         | 735,122                                         | 735,122       | 103,163                                        | 432,343                         | 12,171,050        | 735,122           | 06.03                                          |
|                                                           | 15,050            | 304,700,010        | 21,013,588                                      | 21,013,588    | 11,586,193                                     | 121,333,591                     | 450,314,388       | 21,013,588        | 04.70                                          |
| Total above Classes                                       | 1,279             |                    |                                                 |               |                                                |                                 | 7,523,030,424     | 630,101,444       | 08.60                                          |
| National Banks . . . .                                    | 5,548             | 138,873,004        | 44,224,180                                      | 44,224,180    | 97,485,224                                     | 11,454,177                      | 202,036,650       | 44,224,180        | 15.14                                          |
| State Private Banks, Banks, Trust Companies, Savings, . . | 10,038            | 83,344,000         | 21,008,400                                      | 21,008,400    | 27,473,886                                     | 5,708,585                       | 137,595,030       | 21,008,400        | 15.31                                          |
|                                                           | 3,105             | 147,271,072        | 33,230,726                                      | 33,230,726    | 63,563,358                                     | 21,393,556                      | 205,468,312       | 33,230,726        | 12.52                                          |
| Total above Banks                                         | 10,681            |                    |                                                 |               |                                                |                                 | 605,100,001       | 68,532,410        | 14.17                                          |
| Total all Classes . .                                     | 102,381           |                    |                                                 |               |                                                |                                 | 8,018,139,425     | 728,693,854       | 09.08                                          |

Governor Reed December 1, 1929, appears, with other material on corporation taxes, a table showing the percentage state taxes were of the income of various classes of Kansas corporations in 1926. The commission said: "It is difficult to escape the acceptance of the contention of the banks that under the general property tax on their shares they are over-taxed, relative to the other corporations for which data are submitted."

Public utilities and railroads, charging for their services rates fixed by public bodies, and insurance companies, taxed differently from banks, do not afford tax data comparable to those of banks.

It needs to be emphasized over and over again that there are no statistics of the value of the property or the shares of other business corporations like the published official statements of the banks. But you can ascertain their incomes, and, after all, aren't they the best measure of capacity to pay?

Let me now present a table showing the percentage of 1926 net profits taken by state and local taxation throughout the United States from those corporations, of various classes, that reported net taxable incomes.

I have here a similar table, which takes into consideration also, as far as possible, the state and local taxes paid by corporations reporting no income subject to federal tax. Its results are in general effect the same as those of the first table, and the statistical set-up of the first is better, it seems to me, than it was possible to make for the second. I do not offer the latter, as it would add nothing to the information to be derived from the first.

What is there, do you suppose, in the banking business, that could make it to the public interest to exact two and a half or three times as much of their earnings from banks as from finance companies; or nearly twice as much as from manufacturers; or half as much again as from trade corporations? Obviously, nothing at all. It isn't justifiable, and it has wrought grievous harm to the public.

Here is your measure of the burden of national bank taxation. There is no other comparative than profits, for no one has ever constructed a measure of the proportion of taxes to actual value of the property of the rest of the taxpayers. We must compare tax burdens, or how can we establish equality and justice? To compare burdens, we must measure them, and this yardstick must be in terms of income because there is no other term in common.

The attitude of the taxing authorities has been wrong. They have, in a way that is usual enough, mistaken the nature of the banking business. May I use a personal story to illustrate that misconception? My father was cashier of a Kansas bank, and my little brother used to go down every day and get a nickel from him. I remember how my mother took my father to task. "You ought not to give that boy money every day of his life," she said; "he

buys candy and chewing-gum with it, and they aren't good for him." "Oh," he answered, "the little fellow comes in and sees money piled all over the counter, and if I didn't give him a nickel he would think I was stingy." The attitude of many assessors, many equalization boards, is just that, sincerely that. They see, by the papers, statements of vast wealth in the banks, and they believe, honestly, I think, that they can dip deeply without hurting anyone. I used to wonder why a secretary of state, in a previous Missouri administration, would look me in the eye and say he didn't believe banks were taxed more highly than real estate, when he knew perfectly well they were. And why a state tax commission, when I took right out of their own files the percentages of taxes paid on real estate to actual sale prices, would still deny Missouri banks the equality required by our Constitution. It wasn't dishonest, as they saw it. It wasn't meant to be oppressive; it was because they had subconsciously that old image of banks as reservoirs of limitless wealth.

And because of like happenings for a hundred years, another state officer said to the New York State Bankers Convention in June: "The only measure which would satisfy all the states would be one granting permission to tax national banking associations or their shareholders on a parity with state banking institutions or their shareholders, without further limitation. To such a proposal you object. Frankness impels me to say, when I review the history of bank taxation for more than a century, that I believe your objection is well founded." That was said by Mark Graves, the distinguished tax commissioner of the state of New York.

The public could endure excessive taxation of the banks with considerable equanimity if only the banks were hurt, but good and ill are not locked away from each other, and no great interest suffers injustice quite by itself.

There were 5,640 bank suspensions in the United States from 1921 to 1929. Inexperience was trying to meet the problems of deflation without sufficient capital, without enough accumulated surplus for a buffer; and an uncertain, but large number of these banks owed their insufficiency of capital and surplus to excessive taxation. With capital subjected to two or three per cent annual taxes, sometimes more, there was every incentive to hold the capital down. After the banks were established heavy taxation discouraged the accumulation of surplus, because it seemed wise to young bank officers to pay out most of their profits in dividends instead of building up surplus to be taxed.

When credit in 1919 and 1920 became so strained that merchants had to sell their goods and farmers their grain and livestock at far less than cost, every bank had losses. It doesn't take much of a loss to impair dangerously the position of a bank capitalized at \$10,000 or \$25,000, or in the cities, \$200,000.



By and by one bank, two banks, a thousand banks, were caught with all their capital and surplus gone, and had to put signs on their doors that the banks were in the hands of the state banking department or of the comptroller of the currency.

Of course nobody can ever tell how many of these 5,640 failures would have been avoided if bank shares had been taxed on some other plan. The states had by taxation penalized bankers for providing adequate capital, and again for accumulating surplus. Practical bankers are convinced that the system of taxing banks on capital and surplus at full book value and general property rate has been a contributing cause, and sometimes the chief cause, of many of these failures.

I will give you official confirmation of the fact that this kind of taxation of bank shares curtails bank capital and surplus. Appearing before a committee of the Wisconsin legislature in 1927, Bank Commissioner Schwenker of that state said: "There are some banks [in Wisconsin] . . . who ought to increase their capital stock for the benefit of the depositors, . . . and the moment they raise the capital stock of that bank . . . their taxes may be doubled. In other words, in order to make their depositors more safe they practically have to give their profits up entirely." Mr. A. A. Schram, superintendent of banks in the state of Oregon, informed me in May of this year that the *ad valorem* tax on banks, until recently effective in Oregon, had been detrimental to the capital and surplus of the banks and had lessened the protection of the depositing public. Banks were actually penalized, he said, if their capital structure was increased and their surplus built up. A proposed legislative measure making surplus increases mandatory was killed in committee, while the old law was in force, because of the *ad valorem* tax penalty on bank surplus. A similar bill passed by the Michigan legislature about two years ago was vetoed by the Governor because of the disastrous increase it would make in the *ad valorem* taxes of the banks. And even in Minnesota, the Bank Commissioner, Mr. A. J. Veigel, recommended to Governor Christianson that bank taxes be related to their income.

From a mass of like testimony I have on file from active bankers, I have selected two specimens. Edward Elliott, vice-president of the Security Trust and Savings Bank of Los Angeles, second in size only to the Bank of Italy, speaking recently at a conference of bankers on the tax question, and referring to the old *ad valorem* tax law of California, said:

"We then had a capital and surplus that was in excess of all legal requirements. Our deposits were around 25 times our capital. And we thought that perhaps we should increase our capital, and for a period of two or three years at intervals we would take up the discussion of the increase of our capital in

the officers' meetings. Every one of these meetings ended with the conclusion, 'No, let's let this rest awhile because it will cost us to begin with \$14,500 for every \$1,000,000 of capital that we add to our capital structure.' "

My last witness on this point is a man many of you know, banker and publicist both, ex-Governor Paulen of Kansas. His testimony is all the more convincing because he favors an amendment of Section 5219. He knows the effect on bank capital of *ad valorem* taxation at general property-tax rates and full book-value assessments. Governor Paulen said at the same conference:

"There isn't any question, Mr. Chairman, but that excessive taxation on banks has held down the capitalization and the surplus of banks in my state and has caused more banks to fail, in my opinion, than any other one thing that has happened in Kansas. We have had very few failures from the inside, and the average bank in my state loans conservatively. Frozen assets very seldom will cause a bank to fail in Kansas. While we are tied up occasionally with the farm crops, usually the next crop more than makes up for the failure of the year before. [Failures occurred] because of the fact that taxes are so high that the bank feels like paying out what little money it makes to its stockholders rather than increase its capital and surplus."

Nobody can ever know how many banks that closed would have got through the depression if they had gone into that period with the additional capital and surplus that most of them would have provided in the good years but for the tax penalty they would have had to pay. Certainly such declines of commodity prices as we saw after 1920 would have caused many failures. But the banks would have had better buffers, and much, very much, of the misery, the broken lives and the wreck of happiness that followed the thousands and thousands of bank failures would have been spared our generation. For your own sakes, in the interest of the public that needs sound, well-buttressed banks, you must see that the old way has long involved too great a percentage of weak and failing banks.

Bankers are notoriously slow to resort to litigation, but in the last few years they have in some states sought and found relief from tax conditions that had become disastrous to banks and public alike. They availed themselves of the protection of a section, now famous, No. 5219 of the Revised Statutes of the United States. If some of them, after years of arbitrary over-assessment, have taken the opportunity for a tax holiday, one can understand, whether one approves or not, their feeling of justification.

It is not an objection to Section 5219 that in practice it often protects national and state banks both. One occasionally hears the

proposal, now, so to amend that section as to permit the states to tax national banks in any forms and to any extent they please, subject only to the limitations of the Fourteenth Amendment. This is advanced as a measure of simplification.

The form is simple, but the problem is not; and therefore the measure does not fit. We can tell right now how it would work. Usually a proposal thought of as new will be found to have been tried before, and so it is with this one. The supposed limitation it would put upon state taxation of national banks is, and always has been, in the constitutions or laws of the majority of the states. I mean their "uniformity clauses." It is precisely in those states that the distorted assessments and discriminatory levies have been suffered, with such ghastly results to the banks and the people the banks were organized to serve. Laws were perfectly correct, but we have seen what administration did. How in the world the bankers of any state could have broken through to relief if there had been in the national bank act no designation of what should constitute unlawful discrimination, I don't know. Require equality of bank shares and other moneyed capital, in taxation, and we can make our proof if there is inequality. We can make proof if there is discrimination in levying income taxes. But if it became lawful to tax bonds and notes at lower rates than were imposed upon bank capital, without providing some definite, practical test of equality with other business concerns of a general character, concerns that have gone into business like ours that the owners might make a living; well, then you would see that the taxing authorities, with their conception of banks as simple reservoirs of wealth, would definitely impair our banking system. If it be said that banks should be willing to take their chances in taxation with other corporations, I draw your attention to the fact that I have proved that, without definite safeguards, banks have no chance. The nature of the business, the constant reports, the easy measurement of what is already expressed in terms of money, the honestly mistaken attitude of the authorities and the impossibility of assessing other property on the same cash basis—think of these considerations, and say again that the bankers should "take their chance."

I should like to suggest forms of taxation that would not discourage the provision of adequate bank capital and the accumulation of proper surplus, but time fails. Such forms are permitted by Section 5219 as it stands, and are encouraged in the amendment to it agreed upon last May by representatives of the Association of States on Bank Taxation and the American Bankers Association. The latter association, by action of its general convention, endorsed the bill last month. Many a banker and doubtless many a tax official feels that he could write a better bill; but in this republic we have all observed that progress is achieved step by step, through

compromise. That is why Mr. Blodgett, who speaks this morning, said, during the hearing at Washington upon the agreed Goodwin Bill, now bearing number 12490: "Lest there be doubt as to whether I favor this bill or oppose it, I wish to say for the record that I prefer this bill to the present law. . . . This bill, offered by Mr. Sullivan, I favor on the ground that it appears to offer two more alternatives not in the present law by which states can get some money from national banks by taxation rather than by national bank contributions."

I agree with Mr. Blodgett that the bill will do those things. It will operate to the satisfaction of the states and the bankers both, although it is probably not what either would have written without urge from the other. It is a long bill, and at first sight it looks complicated, but it is not complicated. The best way to study it is to read first those paragraphs and sub-paragraphs that affect your own respective states. If you are working under the uniform ad-valorem property tax, you needn't read the bill at all. There is not a word in it that changes your situation. If you are using, or wish to use, low rates on intangibles, read the second proviso of sub-paragraph 1 b, and all of paragraphs four and five. You will observe that when the bill is enacted you may disregard the old requirement that you limit the taxation of national bank shares to the taxation you impose upon competing moneyed capital, if you look out for two things: First, (if you wish to drop the old moneyed capital comparative) you must see to it that the taxes you impose upon banks and their chief competitors are equal and parallel, that is, that taxes are levied at the same rate upon the shares of banks, the shares of other financial corporations, and upon the net assets of individuals, partnerships and associations employed in the banking, loan or investment business. No question of fairness comes up here; the principle is right. The other condition is that your taxes on national bank shares and on bank real estate shall absorb, together, no greater percentage of the income of the banks, as a class, than your taxes in all forms absorb from the incomes of mercantile, manufacturing and business corporations, as a class.

Section four provides how the relative burden of the income of national banks and of other corporations shall be calculated. In general, the plan so long in easy, successful, simple operation in Massachusetts, to which I referred earlier this morning, is followed. Section five contains definitions.

If you are using, or wish to use, the income tax, you needn't read the bill, either. The system is not to be changed by it. If you have been levying an excise measured by all net income, including income from tax-exempt securities, read sub-paragraph 1 c. It provides that you can levy a specific tax on national bank shares, based upon the amount of dividends paid during the preceding year, plus

the increase in surplus and undivided profits, except of course any increase paid in by the shareholders. That, of course, is arithmetically equivalent to a tax on all income, from every source, and it will probably stand up, even as against *Macallen v. Massachusetts* (279 S. 620), the case that decided that the states could not, with purpose and intent, so measure an excise as to have the effect of taxing income that would be exempt from direct income taxation. The distinction between the Massachusetts excise tax and the specific tax provided for in the new bill, H. R. 12490, is that the specific tax is levied upon the shareholders and not, like the excise, upon the banks.

The provisions for the excise remain in the bill and will be valuable to states that find some constitutional obstacles to the use of the income tax. Ablest authority holds that the right to levy excises is an incident of sovereignty itself, and that only two or three states have so limited their legislatures as to make it impossible to enact bank excise.

The bill is short, for all it had to do, and readily understandable, particularly if each of you looks for the provisions applicable to his own commonwealth. At the hearing upon the bill before the House Committee on Banking and Currency, May 9, only two representatives of the Association of States on Bank Taxation opposed it. Of course, both sides spoke of individual preferences that had not been satisfied; but that is always the case in a democracy. We reach our results by compromise and understanding. This bill will settle the relations of the government and the states on bank taxation for a long, long time to come.

If I may summarize what I have said this morning, the tax question is one of the distribution of the burden.

National banks, as members of the Federal Reserve Bank, are more essential agencies of the government than they ever were.

Other property has been under-assessed, and so banks have been over-taxed.

Excessive taxation results in small capital and surplus, and so has played a part in thousands of bank failures of recent years.

Bank taxation has been excessive because of the mistaken conception many tax officers have of banking, and their consequent wrong attitude toward bank-tax assessments.

Because of this attitude, Congress must still attach conditions to the permission it gives the states to tax national banks, but the conditions expressed in the new Goodwin bill, H. R. 12490, can be readily satisfied.

Under it you can tax intangibles as you wish. You can tax our bank shares, or our income, or our dividends, or bank income and stockholders' dividends both.

If there are conditions, these, it seems to me, are in the interest

of bankers and public both, one as much as the other. We ask only fairness and understanding, and as one who has worked for years that understanding might come, I thank you for listening this morning to this exposition of the position of the banks.

CHAIRMAN LONG: I am sure I speak the thoughts of all of you in thanking Mr. Cooke for this very able address which he has given, and the very clear way in which he has presented the bank situation to us. We are going to have the privilege now in this round-table discussion of getting the other side of the picture, and from one whom we all know and for whom we have a very deep respect and admiration. Mr. Blodgett is the next speaker, and he has given a great deal of thought and attention to this matter, and has gone, I think, to greater length in getting his facts well grounded perhaps than any of the other taxing officials of the states of the Union; and it is therefore a very great pleasure to present to you Mr. William H. Blodgett, tax commissioner of the state of Connecticut.

WILLIAM H. BLODGETT (Connecticut): Mr. Chairman, Ladies and Gentlemen: I have been an observer of this problem of taxing national banks since the controversy first arose, immediately following the so-called Richmond opinion, in 1921.

On the first look I confess to having gotten a decided slant in sympathy with the position which the bankers took, it being reported somewhere in the country that somebody wanted to impose upon the national banks. I didn't know but that it might be true. I felt that perhaps there had been some real purposeful discrimination against such banks. I have studied the problem for this period of time more or less, but within the last year and a half more than previously. I have reached another conclusion, which is to the effect that banks and bankers have not been and are not now being discriminated against by taxing authorities of the great sovereign states of this country.

In Washington on May 9th of this year a hearing was had on the bill referred to by Mr. Cooke. At the hearing, out of courtesy and deference to Mr. Sullivan, who was working on this problem so hard, I said that I thought it might be an improvement over the present law, under which no state can operate, as you know. Mr. Graves thought, if enacted into law, it could be useful in the state of New York. I therefore did all I could to get Congress to pass it, at the same time reserving my rights and feeling that the doors of Congress would be knocked on again and again if that legislation were not removed and states be permitted to tax national banks. The new bill proposed gave no such permission.

The situation now is that in some of the states the bankers are themselves willing to pay more than can be imposed upon them under the present law. Such are the reports I have from tax com-

missioners. Where tax structures have been upset, from California to Massachusetts, and states in between those, none of them are able to solve their problem and in fact impose upon national banks any lawful tax that they can by any stretch of fancy believe to be constitutional.

I want to make a few suggestions with respect to the remarks made by Mr. Cooke. Mr. Cooke points to the fact that there have been many bank failures. That is deplorable. It is a far-reaching thing to have a bank fail in any community. He says that it is due to the taxation of banks. I doubt it, because in the states where most failures have occurred there has been no tax on banks. There has been a tax on real estate of banks, if they owned real estate, and the shares may have been taxed. However, a tax on shares is not a tax on the bank which can affect the capital, surplus and undivided profits of the bank. Read the case of *Des Moines v. Fairweather*, 263 U. S. 103, and observe the distinction in that case, and in other cases before the Supreme Court of the United States, to show that a tax on shares is not a tax on the bank. The distinction is perfectly clear. So, if there have been failures of banks, and those failures have occurred in largest measure in states which impose no tax on banks, but do impose a tax on shares, the failure could not have been due to repression or discouragement of accumulated capital, surplus, and undivided profits. I have the figures to determine the states wherein these failures occurred. I presume Mr. Cooke has them, and this is an interesting study in view of the statements which Mr. Cooke has made before this conference.

## WEIGHING THE NATIONAL BANK TAX BURDEN BY COMPARATIVES

WM. H. BLODGETT

Tax Commissioner of Connecticut

By making comparison of either of the early federal statutes which submitted shares of national banking associations to taxation by authority of states with the existing federal statute in relation to the same subject, the conclusion is inescapable that in point of length, breadth, density and complexity, the statute in existence at this time ranks exceedingly high. If simplicity was an object which was sought to be attained when the present statute was enacted, a serious mistake was made. In the preparation of a state statute, designed to comply with the existing federal permissive law, strange and perplexing difficulties must be overcome, and innumerable legal pitfalls, most hazardous for cumbersome state legislatures to hurdle, must be seen and avoided. Attempts by many states to enact state laws to meet the involved limitations prescribed in the present federal law have resulted in failure. Efforts by tax commissioners of

many of the states to persuade Congress to simplify this permissive act so that these difficulties might be overcome have proved wholly fruitless of results. New and involved alternatives, such as those contained in the proposed substitute for the Goodwin bill now pending in Congress, if added to the old prohibitives found in the present law, instead of furnishing a solution to the problem add fuel to the flame. The existing statute, formerly designated as section 5219 of the Revised Statutes of the United States, is now section 546 of chapter 4 of Title 12, Banks and Banking, of the 1925 Code of Laws of the United States as amended. It reads as follows:

"*State Taxation.* The legislature of each state may determine and direct, subject to the provisions of this section, the manner and place of taxing all the shares of national banking associations located within its limits. The several states may (1) tax said shares, or (2) include dividends derived therefrom in the taxable income of an owner or holder thereof, or (3) tax such associations on their net income, or (4) according to or measured by their net income, provided the following conditions are complied with:

1. (a) The imposition by any state of any one of the above four forms of taxation *shall be in lieu* of the others, except as hereinafter provided in subdivision (c) of this clause.

(b) In the case of a tax on said shares the tax imposed shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such state coming into competition with the business of national banks: Provided, That bonds, notes, or other evidences of indebtedness in the hands of individual citizens not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with such business, shall not be deemed moneyed capital within the meaning of this section.

(c) In case of a tax on or according to or measured by the net income of an association, the taxing state may, except in case of a tax on net income, include the entire net income received from all sources, but the rate shall not be higher than the rate assessed upon other financial corporations nor higher than the highest of the rates assessed by the taxing state upon mercantile, manufacturing, and business corporations doing business within its limits: Provided, however, That a state which imposes a tax on or according to or measured by the net income of, or a franchise or excise tax on, financial, mercantile, manufacturing, and business corporations organized under its own laws or laws of other states and also imposes a tax upon the income of individuals, may include in such indi-



vidual income dividends from national banking associations located within the state on condition that it also includes dividends from domestic corporations and may likewise include dividends from national banking associations located without the state on condition that it also includes dividends from foreign corporations, but at no higher rate than is imposed on dividends from such other corporations.

(d) In case the dividends derived from the said shares are taxed, the tax shall not be at a greater rate than is assessed upon the net income from other moneyed capital.

2. The shares of any national banking association owned by nonresidents of any state, shall be taxed by the taxing district or by the state where the association is located and not elsewhere; and such association shall make return of such shares and pay the tax thereon as agent of such nonresident shareholders.

3. Nothing herein shall be construed to exempt the real property of associations from taxation in any state or in any subdivision thereof, to the same extent, according to its value, as other real property is taxed.

4. The provisions of section 5219 of the Revised Statutes of the United States as in force prior to March 25, 1926, shall not prevent the legalizing, ratifying or confirming by the states of any tax heretofore paid, levied, or assessed upon the shares of national banks, or the collecting thereof, to the extent that such tax would be valid under said section."

Attention is first directed to the provisions of this federal statute which permits states to tax national bank shares in the hands of holders. The rate, as will be observed, to be imposed upon such shares cannot be greater than is assessed on other competing moneyed capital in the hands of citizens of the taxing state. Assuming, violent as this assumption is, that a state has, in some manner, accomplished the impossible and has been able to classify moneyed capital into competing and non-competing classes, it is thereupon confronted with the necessity of fixing a rate of tax which will impose no higher burden upon the moneyed capital invested in bank shares than is imposed upon other moneyed capital so classified as competing capital but owned and in the hands of citizens. The state must determine, in advance, the question of burden. The word "rate" in the federal statute having been construed to mean burden, some plan must be devised in order that the state may know with a fair measure of certainty that capital of citizens which is competing with the capital invested in bank shares is taxed as high in point of burden as the capital invested in such shares. Neither the federal permissive act, heretofore known as

section 5219 of the Revised Statutes of the United States, nor court opinion furnishes any rule, suggestion of a rule, or clue to any plan by which one man's tax may be compared with another man's burden. The failure to offer any suggestion of the kind has been most wise. This is due to the fact that no rule of the kind is possible of formation.

For the purposes of this discussion and to illustrate, let us assume that the state has imposed a tax of five mills on the dollar of the fair market value of all intangible property in the hands of the holders, including bonds, notes, shares of stock in corporations of all kinds, moneys, credits and choses in action. It then becomes pertinent to inquire whether the burden thus imposed upon bank shares is greater than will be imposed by the same rate upon other competing capital in the hands of citizens of such state.

Assume that some citizen with private means in the amount of one hundred thousand dollars uses all of this amount in the money-lending business, takes real estate loans, discounts paper, and carries on operations otherwise in direct competition with a small national bank capitalized at one hundred thousand dollars. Undoubtedly, this private capital is in substantial amount when compared with the amount available for use by the bank. Assuming fifty thousand dollars of this money were loaned at six per cent per annum, payable in the manner of a bank loan, and the note is made payable at the expiration of a period of one year, the income therefrom would amount to three thousand dollars at the time of maturity of the note, and the tax, at the five-mill rate on the dollar, if the note were valued at par, would be two hundred and fifty dollars. The amount of tax assessed would equal eight and one-third per cent of the income derived from such loan. We may now observe the situation if a like amount, or \$50,000, were invested in shares of the bank which pays no dividends. It may be reasonable, upon observation of the statement of the bank, that the shares should be valued for purposes of taxation at par, and, if so, the owner of the shares would be required to pay, at the five-mill rate, the same amount, or two hundred and fifty dollars. Is the owner of the shares, having received no dividend from his investment, being burdened excessively as compared with the burden borne by the payee of the note? Since the owner of the bank shares is required to pay the amount of his tax from other moneyed capital in his possession, the court would be justified in finding, and in all probability would find, that the banking capital was being discriminated against by the state statute imposing such rate of tax. Rates of taxation which are so onerous as to cut into and absorb capital assets are offensive to tax commissioners and to taxpayers, and even bankers are sometimes heard to protest against paying taxes out of capital assets.

To equalize this burden, therefore, there would be the necessity of fixing a new rate, with a differential favorable to the bank, or the state or municipality which benefits by the tax may equalize the burden by granting a subsidy to the owner of the bank shares. One or the other of these alternatives would have to be adopted in order to equalize the tax burden as between these taxpayers. It being absurd to consider granting such subsidy, further attention would have to be directed toward the adoption of some plan by which an owner of bank shares would in no circumstance of the kind be required to pay taxes which are discriminatory and which must be paid in every similar circumstance from capital assets. For the purposes of this illustration I have assumed that during the term of the competing loan, the bank has added little, if anything, to its surplus, undivided profits or reserve but possesses assets sufficient to justify valuing its shares at par. Unfortunately, all banks do not earn money in every taxing period. In every such case, any tax imposed upon nondividend-paying bank shares, however low the rate may be, is more burdensome and more objectionable in every way than even a higher rate so imposed that payment of the amount of the tax may be made otherwise than by confiscation of invested capital.

A second illustration may serve a useful purpose. Assume that another bank in the same state has made substantial earnings during the period of a similar competing loan and was able to pay six dollars per share to its stockholders, and, being conservatively and successfully managed, added a very substantial amount to its reserve and to its surplus and undivided profits accounts, so that, at the expiration of the year, the value of the investment in the shares had very substantially increased. Here the amount of taxes paid on the bank shares, reflecting conservative bank management, would be larger than that paid on the note, provided the shares were valued in excess of par, as in such case should be done. It is clear, in this circumstance of things, that no discrimination against the owner of the bank shares could be found to exist.

From these illustrations it may be seen that the state imposing the five-mill rate is by no means at fault because of apparent discrimination against one bank. The other is justly treated by the same state. Assume the remaining fifty thousand dollars in the hands of the money-lender mentioned may be used in like manner in competition with the business of the successful bank. Such other loans might be widely spread in small amounts among the citizens of the community where the bank carries on its operations. This competing capital must be sought out, brought into the tax net and taxed at the five-mill rate. If the total amount of such capital of the lender cited, and of other citizens engaged in a like business, should be untaxed, and the aggregate should be substantial (what-

ever that may be), the court would be compelled, in the event litigation were instituted by the bank, to find that discrimination existed, and the statute imposing this tax would be held unconstitutional. What constitutes a "substantial amount" in every such case is a question determinable by the court. An amount held substantial if competing with a small bank, might be held not substantial if competing with a large and successful bank.

There are in Connecticut sixty-five national banks. In the calendar year 1928 only four of these banks sustained losses. During that year the bank having the lowest ratio of state and local taxes to net income paid seven and one-half per cent of its income (plus deducted taxes) in state and local taxes, while the bank with the highest ratio of state and local taxes to net income from operations in the same year paid two hundred and fifty-six per cent of its net income (plus deducted taxes) to satisfy the bills of the state and local tax-gatherers. This is in exclusion of the four banks which sustained losses. It is seen, therefore, that the spread between the bank which paid the highest percentum of state and local taxes to net income and that which paid the lowest percentum is very great. Whatever rate any state may impose upon bank shares, therefore, is open to successful challenge by the bank paying the greatest percentage of state and local taxes to net income, while not subject to challenge at all by the bank paying the lowest percentage. It should be noted that when any bank successfully challenges any statutes imposing a tax on shares, it being able to show discrimination, the state law imposing the tax is declared unconstitutional as to all banks within that state. The dilemma of any state, in the face of such a condition of things, is serious. Few, if any, states which have adopted the share-tax plan could withstand the attack of the sharp-shooters employed by the national banks at the instance of any one of a few unsuccessful banks.

In attempting to find some means of comparing tax burdens among taxpayers or groups of taxpayers, the mind of the average tax man usually adopts the net income tax measuring-rod. It is doubted that in any comparison of such burdens, the court would use this measuring-rod alone. It is probable that the court in making its decision in a particular case would attempt to employ other bases of making such comparison, such as taxes to total assets, to invested capital, to gross earnings, or to investment income. The result which would be obtained in using any of these bases of comparison may be directly opposite from the result which would be obtained by using net income. No one can foretell, in any particular case, which one of these various methods, producing widely different results, would be used by the court.

In practically all of the states whose tax structures have been upset as a result of litigation brought by national banks claiming

discrimination, it has been shown that a vast amount of non-banking capital competing with the business of banking escapes taxation altogether. Such escape is greatest in states which attempt to tax intangible property at the general property-tax rate. Where low classified rates on intangible property obtains, the same is true to a lesser degree, but to a considerable extent. The result is that if bank shares are taxed, state laws imposing such tax are in very great danger of being declared unconstitutional under the present share-tax alternative.

In the illustration first given above, it is shown that if moneyed capital invested in the fifty-thousand-dollar note is taxed under the state statute at the same rate as that imposed upon shares of national banks in the hands of holders, the law imposing this burden would be unconstitutional if challenged by an unsuccessful bank. If the fifty thousand dollars escapes taxation, the law, however challenged, is also unconstitutional.

The present federal law purports, in addition to the share-tax method, to give to the states three methods (or five methods, if the combinations of the three basic methods allowed be included) of taxing national banks or the business conducted by them. All of these methods of permitting the states to tax national banks are based upon net income. The three basic methods are: (1) dividends, (2) net income, and (3) according to or measured by net income. All of these methods are, however, hedged in with restrictions. Dividends may not be taxed "at a greater rate than is assessed upon the net income from other moneyed capital." The national banks may not be taxed on their net income or according to or measured by their net income at a higher rate "than is assessed upon other financial corporations nor higher than the highest of the rates assessed by the taxing state upon mercantile, manufacturing and business corporations doing business within its limits." If either of these methods, accordingly, be used, it is necessary for the taxing state to compare on a net income basis the tax burden of national banks, not only with other financial corporations which are assumed to compete with the banking business, but also with mercantile, manufacturing and business corporations which do not compete with such business. Difficult as is the task before any state of attempting to compare the tax burden of national banks with other incorporated competitive moneyed capital, the task is made much more difficult by the present law in extending the comparison to non-competitive capital of mercantile, manufacturing and business corporations. What is meant by the term "business corporations" no one knows. Whether these three non-competing groups are to be compared separately or collectively is not known. It would appear, from the fact that all of the apparent additional methods of permissive state taxation of national banks are based

upon net income, that Congress is of the belief that net income is a peculiarly appropriate method of taxation. There is high authority for the efficacy and accuracy of net income as a competent basis of comparing the relative tax burdens of various groups of taxpayers. Judge Paton, general counsel of the American Bankers' Association, is so enthusiastic about this that, in the transcript of the hearings on May 9, 1930, at Washington before the House Committee on Banking and Currency he made the following statement:

"The only practicable way of ascertaining and fixing an equality of tax burden between banks and corporations is by a comparison of net income and imposing equal taxation upon each in proportion to income."

Mr. Thornton Cooke, chairman of the Taxation Committee of the American Bankers' Association, is on record, at the same hearing, to like effect.

Net income, as that term is used by the federal government for purposes of taxation, as used by state governments for purposes of taxation and of regulation, as used by accountants for purposes of bookkeeping, as used by taxpayers themselves for ascertaining their net profits or losses, and in a new definition recommended by Judge Paton and called "total net income," may be and is widely different. For comparative purposes neither statute nor court opinion affords a clue by which to determine as to what net income is or which definition is to be used. It is doubted if a method of comparing relative tax burdens can be said to be practical when the measuring-rod is so incapable of definite determination. The federal law pretends to make a distinction between the taxation of national banks based "on their net income" and based "according to or measured by their net income." This difference is a figment of fancy. [See *Macallen v. Massachusetts* (1929), 279 U. S. 620.]

Net income as a basis of taxation would be peculiarly favorable to national banks. A study of the Statistics of Income, as published by the Bureau of Internal Revenue during the last ten years, and a study of the reports of the Comptroller of the Currency for the same ten-year period, show that Connecticut national banks have a stability of earning power not equalled by the other corporations which are grouped under the heading "financial corporations" by the Bureau of Internal Revenue and not equalled by any of the other groups of corporations (with the possible exception of public utilities). Public utilities, by consent of the bankers, are not to be construed as being within the definition of business corporations. Stability of earning power is one of the great earmarks of a successful corporation. The relatively small change up or down in the earnings of Connecticut national banks as a whole, year after year, in periods of depression and of prosperity is nothing less than startling.

Over the twelve-year period July 1, 1917 to June 30, 1929 inclusive, the relative stability of earning power of Connecticut national banks as shown by the ratio of net earnings during the year to invested capital (capital, surplus and undivided profits) at the end of the year is shown in the following table:

| Year ended June 30 | Connecticut National Banks<br>Per-cent Net Earnings<br>to Invested Capital |
|--------------------|----------------------------------------------------------------------------|
| 1918 .....         | 8.5%                                                                       |
| 1919 .....         | 8.5                                                                        |
| 1920 .....         | 9.7                                                                        |
| 1921 .....         | 9.4                                                                        |
| 1922 .....         | 8.4                                                                        |
| 1923 .....         | 7.9                                                                        |
| 1924 .....         | 8.2                                                                        |
| 1925 .....         | 8.3                                                                        |
| 1926 .....         | 9.0                                                                        |
| 1927 .....         | 8.4                                                                        |
| 1928 .....         | 9.3                                                                        |
| 1929 .....         | 9.4                                                                        |

It is seen that the lowest rate of return on invested capital was 7.9% for the twelvemonth ended June 30, 1923, and the highest rate 9.7% for the twelvemonth ended June 30, 1920. Comparison of other groups of taxpayers shows no such high relative earnings combined with such marked stability of earning power.

The calendar year 1921 was a year of unusual financial depression. In that year the results of the operations of all of the corporations reporting to the Connecticut Collector of Internal Revenue was a net deficit. That year the national banks in Connecticut reported net earnings favorably comparing with the earnings of the year preceding, paid out increased amounts in dividends, and substantially increased their undivided profits. As contrasted with the small annual fluctuations in earning power from year to year shown by the national banks may be shown the violent swing up and down of other groups of corporations, including those which may be designated as manufacturing corporations, agricultural corporations, building corporations, and generally the various groups and subgroups of corporations within the state. Even finance corporations themselves (in which group national banks are placed) show to a large degree great changes in earning power from year to year. Stability of earning power has great influence in determining the market value of the stock and of other securities of a corporation, and ought to have great influence in determining its ability to pay taxes. Under the share-tax plan, if federal interference should be withdrawn, this and all other advantageous factors can be taken into account by the states in imposing taxes. Under the net-income

tax or a tax measured by, in, upon, through, or according to income, or any other form of business tax levied directly upon the business of banking, great advantage over all other classes of taxpayers is secured to the banks by the Constitution of the United States. The opinion in the Macallen case, *supra*, is cited to show this. See *Des Moines National Bank v. Fairweather* (1928), 263 U. S. 103, and other cases in point which differentiate between a share tax and a tax levied on the corporation itself.

In the base of the income tax it may be seen that receipts from tax-exempt securities held by banks cannot be reached. The amount of the receipts by national banks from tax-exempt interest and dividends averages approximately one-third of their total receipts. No other class of Connecticut corporations has so large a proportion of tax-exempt receipts. The difference is more marked if comparison be limited to interest received from tax-exempt federal, state and municipal securities. The language used in the permissive act, "the entire net income received from all sources," has proved to be without substance and deceptive.

In 1926 four hundred and forty, or one-third of the one thousand three hundred and twenty Connecticut companies classified in "Statistics of Income" as finance companies, had no net income. These four hundred and forty unsuccessful finance corporations did 27.5% of the total business of finance companies and suffered losses which represented 96.7% of the net income of the eight hundred finance companies having gains. It is an interesting commentary on the favorable position occupied by national banks, not only amongst Connecticut corporations as a whole, but also amongst their own group of finance corporations when "Statistics of Income" for 1926 show that while 33.3% of the Connecticut finance corporations and 40% of Connecticut corporations as a whole reported no net income, only 10.8% of the Connecticut national banks reported no net income. In addition, while the 1926 losses of the Connecticut finance corporations were 96.7% of the net income of the Connecticut finance corporations reporting net income, and while the 1926 losses of the Connecticut corporations as a whole were 33% of the net income of all the Connecticut corporations reporting net income, losses of the seven Connecticut national banks were but 2.9% of the net income of the fifty-eight national banks reporting net income. By this and every other known method of comparison, the favorable position of national banks may be shown. If ability to pay is to continue to be the watchword in taxation, no reason exists why national banks should not assume responsibilities to government by bearing a tax burden at least equal to the burden borne by other important groups of taxpayers. Owing to recent and well-known decisions of the courts interpreting the existing permissive federal act, national banks, by the income-tax method, cannot be compelled



by states to assume a burden comparable by any yardstick of comparison equal to that which is imposed by the net income tax on other groups of taxpayers.

The net income tax measuring-rod fails sadly when attempt is made to compare relative tax burdens of national banks with the burden imposed by states on insurance companies. Since national banks were authorized to lend money on real estate mortgages, and to act as trustees, the insurance companies, particularly life companies, whatever may have been their former status, must now be held to be competitors of the banks. It is probable they were competitors of the banks before 1916. Since that time there is little doubt about it. Such companies are great reservoirs of capital which is placed constantly in various ways and in all sections of the country in competition with the business of banking. Insurance accountancy is unlike that of any other group of taxpayers. Peculiarities of this group and of classes within the group, such as life and fire, requiring the setting up of statutory reserves, together with other reasons, render the income tax measuring-rod entirely unsuitable as a means of comparing tax burdens of such companies with the burden imposed upon any other group of taxpayers. What becomes of this so-called protective principle, insisted upon by banking interests, if comparison of burden is not to be made or cannot be made by the use of this measuring-rod with this class of corporations which furnishes such aggressive competition with the business of banking? As to the insurance group as a whole, the measuring-rod proposed fails again, because it lacks universality of application.

In the event that any state tax is imposed on net income or measured by or according to net income of national banks, the financial corporate comparative must be dealt with in every case. The national bank tax burden must be compared with the burden imposed "on other financial corporations." Does this term "other financial corporations" include insurance companies? If insurance companies are to be excluded, the ratio of taxes to net income is affected seriously, favoring the banks.

No basis of comparing tax burdens of various groups of taxpayers can be complete without giving attention to losses. Unfortunately, all corporations do not have profits each year. In any given year, whether it is one of prosperity or one of depression, some corporations will not have profits. In Connecticut, in a year of prosperity, the amount of deficit which is suffered by corporations having net losses will be a sizable aggregate. In a year of depression the aggregate deficit of corporations having net losses may exceed the aggregate net income of corporations having profits. "Statistics of Income" show that in 1921 net losses exceeded net profits in Connecticut. This means that the result of the operations

of all four thousand eight hundred and ninety-nine corporations reported to the Connecticut Collector of Internal Revenue for 1921 was a net loss. Insurmountable difficulties protrude when attempt is made to compare groups of corporations when minus quantities enter. This is peculiarly the case when a great many of the items for comparison are negative and when the distribution of such minus quantities as between groups greatly varies. The net income tax measuring-rod as a basis of comparison breaks down when the denominator of the fraction on which the comparison depends is a zero or minus quantity. Any measuring-rod lacking universality of application is useless.

Excluding insurance companies which pay heavy taxes to the states and which are competitors of the national banks, there remains in the class designated "other financial corporations" all small-loan companies, mortgage companies, acceptance companies, state banks, building and loan associations, savings banks and all other finance corporations which have grown up in recent years and which in all probability cannot be considered otherwise than as being of sporadic growth. In grouping corporations into classes, there is trouble. Each must be grouped, regardless of title, into the class from which it obtains the major portion of its income. Due to this, a corporation engaged in a number of activities may be properly placed in one group during one tax period and in another group in another such period. If it were possible to subdivide activities of corporations having broad corporate powers and to place each subdivision into its proper group, a more accurate picture of tax burden as between groups would be obtainable. Under the law no mistake with respect to grouping is tolerable.

The court of last resort alone can determine how a corporation of importance, or, for that matter, a whole group of corporations, should be classified.

The situation presents itself with respect to real estate ownership which may be best shown by an illustration:

Suppose two corporations in the same group or industry are doing the same amount of business and receive the same amount of income. State and local taxes paid being the numerator of this fraction in each case, and net income the denominator, it would appear that each is bearing the same tax burden. Suppose now that one owns and pays taxes on substantial real estate holdings, while the other rents the space needed to carry on its operations. In one case the taxes to net income ratio has been enormously swelled by payment of real estate taxes. The amount of all state and local taxes being placed in the numerator of the fraction, any additions to tax payment count heavily in the percentage figure of taxes to net income. In the other case, no real estate taxes have been directly paid. In his payment of rent, heavy real estate taxes may be in-

cluded, but, in that case, such payment affects only the denominator of the fraction. From the percentage figure to be shown, it would appear that one company is tremendously overtaxed as compared with the other, but such may not have been the case.

The presence, therefore, or the absence of real estate holdings in the assets of any group of corporations may render wholly worthless the net income tax plan of comparing or measuring the tax burdens. The absence of real estate holdings in certain groups which may be classified as financial corporations and which generally own no real estate renders wholly worthless comparison of burden of such group with banks which generally do pay real estate taxes. Under the existing law and under the law proposed as a substitute for the Goodwin bill which is now pending in Congress, other financial corporations, a high percentage of which pay no real estate taxes, must be taken into account and comparison of tax burdens attempted with the bank-tax burden. The result of such comparison would present a picture. It would inevitably appear that the banks are excessively burdened. It would appear from such figures that the finance corporations, a high percentage of which own little or no real estate, pay comparatively little in taxes. The reverse in any such case might be true.

Because the tax to net income measuring-rod breaks down at so many points, because it lacks universality of application, because it cannot take into account innumerable variables and the true incidence of taxation, it is a worthless and frail reed, a most unreliable and undesirable index by which to compare or measure tax burdens as among dissimilar corporations and groups of corporations. Even among taxpayers of the same group it is far from dependable. In practically every case, when comparison of tax burden of other groups of taxpayers with the banks is made by the use of the net income tax measuring-rod, contrary to fact, the national banks may be shown to be excessively taxed. Other groups of taxpayers are most certain to be placed in an unfavorable light by the use of this unfair method of making determination of tax burdens.

From the standpoint of proper perspective alone, even though this measuring-rod were accurate, no state legislature ought to require its taxpayers, tax administrators, and the courts of the country, annually, to attempt to determine whether one per cent of its taxpayers are being justly taxed by such cumbersome machinery as that contained in the present law, or, which is far worse, that proposed in the substitute for the Goodwin bill. If the protection afforded other taxpayers in all states by the Fourteenth Amendment is not ample to protect national banks against discrimination or unfair treatment of any kind, the situation is strange to behold. Any attempt to resolve this doubt in favor of the banks should be met by the passage of a simplified federal law with which the states

can comply with reasonable effort and with a fair measure of certainty that its statutes are constitutional.

In the far-reaching, ever-changing process of tax adjustments which is taking place in all states, banks and bankers, with all other seekers of business profits, should be required to accept pot-luck. They are entitled to no tax favors. The proud and advantageous position which national banks occupy in the business field alone should deter them from seeking tax favors of any kind, indirectly by appeal to Congress or by appeal to the states wherein they carry on operations. I bear witness that there is not in Connecticut the slightest prejudice against banks or bankers. On the contrary, precisely the reverse situation exists. The business of the banks and the banker himself is held in the highest regard in all sections of the state. In community life, in state affairs, as well as in private business, the counsel of the banker is sought, without the slightest doubt, with greater frequency than from those engaged in the management of other corporations. It is the business of the banker to encourage and promote sound business policies. In the performance of the full measure of this duty, he very properly encourages the highest measure of responsibility in public business. The banker is generally a man of great personal, business and political influence. The existence of good feeling on the part of the public toward banking interests is of incalculable value, not only to the business of banking, but to every business interest. Once established, such good feeling should not lightly be disturbed. Good feeling cannot either be fostered or maintained by placing sovereign states in the position of supplicants anxious to accept contributions from banking interests, while others within such states bear tax burdens imposed by law. Supplicants, many states are, and so they must remain until Congress, by appropriate action, shall permit the states to tax national banks.

CHAIRMAN LONG: Mr. Blodgett, we want to thank you for your very able contribution to this round-table discussion.

We have next the pleasure of listening to one who is listed on the program as being from the University of Kansas. Since this program was printed, the movement in Chicago to reestablish the confidence of the country in Chicago, has been moving along, and as a part of that movement Professor Jensen has been loaned by the state of Kansas to the University of Chicago, to help in this reform movement, which Chicago hopes will eventually restore them in the confidence of the country.

We will now have the pleasure of listening to Professor Jens P. Jensen, who will speak to us on "The Economic Aspects of Bank Taxation."

JENS P. JENSEN (Kansas): Ladies and Gentlemen: For the

benefit of the stenographer I will say that I propose first to read a brief paper, and then with the indulgence of the chairman and others present I propose to make a few observations which have come to me because of what I have heard and seen since I arrived at this conference.

I will say to you that this paper is very brief, very much briefer than any so far presented, and much briefer than those which I am in the habit of presenting. I make this statement for the purpose of possibly comforting persons present here. I am moved to this by a remark made to me last night or the night before by a gentleman sitting close to me in the back of the room. He had been listening to two or three papers, presented, I think, by college professors, and then he leaned over to me and said, "This is too academic, this is too general, why can't they be particular?" So, he leaned back in his chair and listened for five minutes more, and then, apparently disgusted and tired, he leaned over to me and said, "This is vaudeville," and instantly he arose and went out in disgust. So, I am making this observation to show you that if this is vaudeville it won't last long.

## ECONOMIC ASPECTS OF BANK TAXATION

JENS P. JENSEN

University of Kansas

The past decade has witnessed a unique conflict in the taxation of commercial banks. The conflict is not yet ended, and no solution, not even a workable arrangement, is in sight. The agreement that has been arrived at between the two bargaining committees of the American Bankers Association and of the Association of States on Bank Taxation is not yet enacted into law. And if it does become law, it will have to run the gauntlet of all the vicissitudes incidental to a new tax. It is a very complicated measure.

Perhaps we should say that all the economic aspects of bank taxation should have been presented earlier as far back as ten years ago, or at any rate so far back as to be of use in shaping the various amendments of Section 5219, and in arriving at the present compromise of the two bargaining committees. One might go further and say that there is little or nothing new that can be said. Yet it is certain that the last word has not been and will not be said for some time. Perhaps there is no last word. Surely if there is one, it cannot be said until a more stable equilibrium is developed than that which exists today.

### I. THE POLITICAL ASPECTS

It may be trite to say that the factors that have produced the present confusion have not been economic. The present situation has grown out of the dual form of government under which we

live. This political situation we shall of course continue to have. From it we cannot escape. Any system of bank taxation we may adopt must fit into the system of banking with banks chartered by two different governments.

The political factor may not have been barren of good effects; but surely the net result, at least at the present time, is far from good. Section 5219 practically prescribed the general property tax for the shares of bank stock. It did practically prescribe uniform taxation, at least in contemplation of law, in most of the states. And this uniformity, in the past may not have been an unmixed evil. But it is certain, in my opinion, that Section 5219 has compelled the states to retain the general property tax longer than they otherwise would have done. The prolongation of that outgrown system of taxation is a serious charge to bring against the political factor in bank taxation.

Except for the restraining force of Section 5219 it seems reasonable to suppose that we should have been further along in arriving at a workable method of taxing banks. Consider the insurance business, by way of comparison. There is no Section 5219 for taxes on insurance companies. They are financial enterprises no less specialized than the commercial banks. Being free to adapt taxes on insurance companies to the economic characteristics of the insurance business we have evolved at least a stable and workable premium tax. The taxes on gross premiums on insurance companies are as uniform and as simple, and as suitable for their purpose as the taxes on the shares of bank stock ever were among the several states. In the absence of Section 5219 we should expect to have made equal progress in taxing banks.

It is also reasonable to suppose that, in the absence of Section 5219, we should have been able to dispose of the discrepancies that now exist, and are strikingly apparent from a comparison of the taxes on banks with the taxes on other financial corporations such as building and loan associations and the various forms of finance companies. The problem of establishing equality in the taxation of commercial banks as compared with the taxation of other financial corporations is far from being an academic question.

## II. ECONOMIC ASPECTS

What are the economic aspects of bank taxation? Possibly the inquiry should be limited to this: What are the economic aspects of bank taxation that can be given due recognition under Section 5219 as it now is; as it will be if amended as proposed; or how ought it to be amended so as to give recognition to all the relevant economic aspects of taxes on banks?

It is easier to approach the question if we first rephrase it so as to read: What taxes on banks are economically sound? It may be

said that a tax on banks, to be economically sound, must produce substantial equality, on some reasonable basis, between the banks and other business enterprises which, like the banks, are neither particularly vicious nor unusually meritorious from a social point of view. It is not essential to economic soundness of a tax on banks that it shall be the same in form as those on other business enterprises. But it is essential that the tax shall bear some reasonable relation to some relevant aspect or aspects of banks and other business enterprises. And the most relevant aspect of all business enterprises would appear to be the business income.

A tax that is unsound economically is socially detrimental. A tax that bears a grossly unequal relation to the net business income of economically similar business enterprises reduces the aggregate net services which these enterprises bestow upon society. The value of the services bestowed upon society by the relatively overtaxed enterprises is curtailed to a greater extent than the value of the services of the relatively undertaxed enterprises is augmented by the discrepancies in the tax burden. There is a net social loss.

Now the social loss sustained in this way cannot be demonstrated fully here. I must content myself with using an actually existing condition as a demonstration. Such a demonstration will be more intelligible than elaborate theoretical proof. It happens that such a demonstration is ready at hand and may be had by a comparison of the taxes on commercial banks with those on building and loan associations. It is not my wish to foster ill-will between cousins in the family of business enterprises we call financial corporations. But the demonstration is too convenient, and should be too convincing, for me to neglect it.

It is a matter of common knowledge that building and loan associations have shown a remarkable growth during the past decade. The total assets have increased from about \$1,769,000,000 in 1917 to \$7,000,000,000 in 1928. The number of persons who are investors has increased from 4 of each 100 in 1917 to 10 of each 100 in 1928. It is perhaps not equally well known that the commercial banks have shown a relatively much slower growth, where they have shown any growth at all. The building and loan associations owe a part of their growth, perhaps a large part, to their preferential position with respect to taxation on their business. On their business as such, in most states they pay practically no taxes. Moreover, they pay practically no federal taxes. The commercial banks enjoy no such preference. On the contrary, they are relatively overtaxed in most of the states. It is not necessary at this point to show that the banks are overtaxed in comparison with non-financial corporations, although I think that can readily be proved in the states where the bank shares are taxed as general property. It is enough for the present argument if the commercial

banks are overtaxed in comparison with building and loan associations. And that is surely true, at least in the general property tax states.

Now the business of the commercial banks and that of the building and loan associations are both, and to my mind equally meritorious. But the gain that has accrued to patrons of the building and loan associations, whether investors or borrowers, by reason of the virtual tax exemption which their business enjoys has been more than offset to the patrons of the commercial banks by reason of the heavy taxes which banks pay.

### III. THE GENERAL PROPERTY TAX ON THE SHARES

Turning now to a brief economic analysis of the specific taxes permissible under Section 5219, let us first consider the property tax on the shares as general property. The original Section 5219 was enacted at a time when the general property tax, both as required by state constitutions, as provided for by statute law, and as cherished (if any tax can be cherished) by public opinion was at its zenith. With the then prevailing philosophy of property taxation, though never with the prevailing practice, Section 5219 was in harmony. Had Section 5219 been drafted fifty years earlier, it *might* have been different. Had it been drafted in 1930, it surely *would* have been different. It is thus an historical accident that we happen to be saddled with an incubus that blocks tax reform, to some degree, in every direction.

By their works shall taxes, like men, be justified. But the property tax on shares as general property has not been so justified, if we accept as a test substantial equality of taxation as between banks and other business enterprises. For it has singled out the commercial banks, in the general property tax states, as the only business corporations, with the possible exception of certain public utilities, to be taxed on the basis of the full value of all their property. The result is partly due to the requirements of the law, and partly due to the facts that these requirements are not and can not be met in practice. Let me take first a very clear case as a demonstration.

It has been my privilege recently to examine at close range the Colorado state tax system. Though the Colorado constitution contains the uniformity clause of the general property tax in some form, the shares of stock of all corporations, except banks, are declared to be not property for purposes of taxation. The shares of banks are therefore by law the only corporate shares taxable as property. And, with the possible exception of certain centrally assessed public utilities, there is no provision elsewhere in the law of the state for taxing the so-called corporate excess which the corporate shares may be said to represent.

Now the situation is not far different in the states in which the



tax law requires, in part, all or some of the corporate shares to be taxed as property. For it is, of course, familiar that these shares are not so taxed in practice. Whether the law requires it or not, the intangibles, other than bank stock, almost universally escape the general property tax. This means that in most of the general property tax states the banks are, again with the possible exception of the centrally assessed public utilities, the only corporations that are taxed on the basis of their total value, including the intangible value of the enterprise. For very few of the general property tax states provide for taxation of this intangible value of general corporations.

But the discrimination extends farther. It is well established, I believe, that intangibles, where they are reached for taxation at all, tend to be assessed at percentage of their value nearer 100 per cent than is the assessment ratio for tangible property. But bank stock is always assessed because of the method of assessment. If then the bank-owned real estate is assessed at, say 60 per cent and the bank stock is assessed at, say 90 per cent of full value; and if the assessed value of the real estate is deducted from the assessed value of the shares, in arriving at the value taxable to the banks, the result is the same as if aggregate taxable value were assessed at 90 per cent to the banks. Hence the banks can neither participate in the prevailing evasion of taxes by non-listing of intangibles, nor participate in the prevailing undervaluation on tangible property. The surveys of bank taxation made by the American Bankers Association's Committee on State and Local Taxation of Banks demonstrate that in fact that type of double discrimination exists partly because of the administrative procedure and partly because of the requirements of the law.

There is still another way in which the property tax on the shares as general property discriminates against the commercial banks. It is a strange paradox in Section 5219 that it does not require tax-exempt assets of the bank to be excluded in arriving at the value of the shares of bank stock for property taxation while in arriving at the taxable income for income taxation, a much lighter tax than the property tax, income from such exempt assets clearly must be deducted under alternative 3, and probably, at least possibly, must be deducted under alternative 4 of Section 5219 as it stands now. In general such exempts are not taxable to other taxpayers, at least not on a property basis.

So it has come about that Section 5219, originally intended as a safeguard to the banks against excessive taxation by the states, has become a device by which they are, at least in the three forms mentioned above, denied or deprived of the relief from property taxes which are available to other taxpayers.

It has been said that the banks could not possibly be overtaxed by a system of property taxes on bank shares as general property.

The assets of the banks, particularly those represented by deposits, correspond to the merchandise of a merchant, or the stores of a manufacturer, or the livestock of a farmer. They are the working capital of the bank, even if they are balanced by claims of depositors, with which the banks do business, and on which they make money. But this argument overlooks all of the three factors I have mentioned above, which result in discriminations against the commercial banks. This argument is rooted in the general property-tax philosophy, and assumes that all property is alike or assumes that it may be taxed as if it were alike, which of course is far from true. The intangible property, taxed fully to the banks, but generally not to other taxpayers on a general-property basis, differs from tangible property in two significant respects. In the first place, nearly all of the intangibles represent tangible property, directly or indirectly, which has presumably been fully taxed without deduction for debt. This fact should argue for their exemption no matter by whom the intangibles are held. In the second place, and for the present purpose most important, the fact that intangibles generally escape, and that the owners do not expect to pay the tax, while the owners of tangible property, especially real property, know that they must pay the tax, has important consequences. Other taxpayers can own and hold the intangibles tax-free, while banks can not. But the yield must be the same to the banks as to others.

In short, the value of intangibles as general property is not a proper basis for their taxation. And the hardships to the banks result from the fact that this inequitable basis of taxation can be enforced against them, has been so enforced against them in the general property tax states, but cannot in general be so enforced against other taxpayers.

#### IV. TAXATION OF BANKS ON AN INCOME BASIS

But if the present property tax on the shares as general property is inequitable as applied at present, the basis of income for taxation runs to the other extreme. If it should develop that alternative four, the excise tax measured by net income without deduction, or at least without more than a proportional deduction, of the income from tax-exempts, in arriving at the taxable income, is permissible, then there is, as is generally understood, a possibility for adequate taxation of the banks, compared to other business enterprises, especially if an offset of personal-property taxes should be permitted, and if a personal-income tax should supplement the corporate excise-income tax. But all of that will stand or fall with the treatment of the income from the tax-exempt sources.

#### V. SPECIAL TAXES ON BANKS

If the Macallen decision should be applied in all its rigor to the taxation of banks on an income-tax basis, then income taxation as

applied to banks would be impracticable. Since the tax on shares as general property is inequitable we cannot expect, nor ought we to hope that it will be retained. There is then left only some special form of tax on the banks. The proposed amendment to Section 5219 would make such a tax possible, as is in use in Virginia, Kentucky, and Nebraska. There is an important difference between a special property tax on the shares at a uniform intermediate rate and a general property tax on them. The former can be placed at such a rate that it will satisfy the banks. Yet that method has all the undesirable features of a compromise measure. Other compromise measures are possible conceivably, but as they are not proposed, they are not proper measures for discussion now.

(After the conclusion of his paper, Mr. Jensen went on as follows:)

MR. JENSEN (continuing): Now, there are one or two observations I would like to make before I leave the platform. When this difficulty about bank taxation first began growing out of the Richmond decision, it occurred to me that it was certainly an unpopular thing, and it seemed at that time an unreasonable thing for the banks to contend that they should be taxed on their shares at the same rate as the rate applied to other intangibles; and the longer that procedure went on the more obstinate and the more unreasonable did the behavior of the banks appear to me.

I have lost part of that now. I am open to conviction, and I think I can learn just the same as most other people can, not as fast perhaps, but still I think I can learn.

Now, I think I have shown already that the general property tax on the shares of banks is not practical, that it is inequitable, for reasons that inhere in the requirements of the law, and for reasons that inhere in the particular method, and for reasons that inhere in the peculiar character of the banking business.

Now, the banks do not want that, of course. I don't think we should want it for them. What should they want? I have heard it again and again repeated by representatives of the banks that they do not want a classification so narrow that it includes only national banks and state banks. Such proposals have been made. It is my notion that for the time being that ought not to be allowed. Whether that can be suitably done later on is perhaps another question. The banks, I think, were afraid of that sort of a classification which contained only the national banks and the state banks; contained, in short, commercial banks. I think now as I look over what I have been thinking before, and what the developments are, they would be justified in fearing it for that reason. What would be the standard set up by most of the states if such a classification were permitted? I think it would be the general property tax on the shares. I think that that tax would continue not necessarily in

all the states but in many of the states. The states show a tremendous reluctance towards giving up that tax, which, measured by its revenue, has been very successful from the point of view of the public treasury. The states and the public in general have come to look upon this general property tax on the shares of the banks as a suitable tax.

Since the Civil War, practically speaking, they have known none other; and it is a reasonable thing to conclude that the thing that they have been used to they have learned to think of as proper; and I think, therefore, that a great many states would use this past method and yardstick, and would continue that method. Now, it may be that a little later, in case we adopt this Goodwin Bill, or in case we go the full length and the bankers still stick to their position that they don't want that classification, it may be that we shall succeed through the leverage of all this bank-tax rumpus in getting the states to abandon that tax on the shares of banks as general property. If once they can have forgotten that that tax is a standard to which they should look in fixing taxes on banks, it may well be that a much more liberal Section 5219 (U. S. R. S.) may be adopted. But, I have a great deal of sympathy for the banks in refusing at the present time at least to accept a narrow classification consisting exclusively and solely of the commercial banks.

It seems necessary to me that we should have at the present time a new deal, and by a new deal the practical elimination in all the states of the use of the tax on the shares as general property. As I said once before, when the unreasonable tradition of the fairness of this property tax on the shares has disappeared, perhaps then U. S. R. S. 5219 can again be liberalized. I think it is fair to say that we must adopt a new yardstick, in view of the actual existing conditions and the feeling which peoples have that the general property tax on shares is an unreasonable one.

Just one more observation. Somebody else could make it, but I think it is proper for an economist to make it—I accept the distinction of “economist” on the basis of having been given this subject.

I want to make an observation on the basis of what Mr. Blodgett has said, because it touches on what I have been saying in connection with the general property tax on the shares of the banks. It was stated that this tax is not on the banks. Legally it is not, but the effect is the same as if the tax were on the banks and if the shareholders were tax-free, because I suppose in most of the states the banks are required to advance that tax; and I doubt very much whether very many of the shareholders of banks ever think of a tax or ever think of their shares as being other than tax-exempt. So that, in this sense, the economic law is a higher law than the statute law; and it does not seem to me that the observation that this tax is not on the banks at all has any significance in this connection.

Thank you.

CHAIRMAN LONG: I am sure we are all very grateful to Mr. Jensen. Now, there has been introduced into this round-table discussion a great deal with respect to Kansas. It was started the other night when the Governor of Kansas drew it into his speech, and continued this morning with Mr. Cooke, who acknowledges that he at least lived under a banking father, in Kansas, and then followed by Mr. Jensen, who comes from Kansas. Now we are going to have the pleasure of hearing from the tax attorney of the Kansas State Tax Commission, Mr. Randall, who has been very actively engaged and interested in bank-tax work, not only in the state of Kansas but also in the changes which were contemplated in the federal statute. It gives me great pleasure, therefore, to call upon Mr. Charles B. Randall to speak on the taxation of banks in the state of Kansas.

## THE TAXATION OF NATIONAL BANKS IN KANSAS

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Prior to 1924 Kansas had in its constitution relating to taxation a clause which provided for a uniform and equal rate of assessment and taxation. Its statutes relating to banking institutions provided for taxation of shares calculated upon capital, surplus and undivided profits. From this aggregate such institutions were allowed to deduct the assessed value of banking premises and other real estate within the state to an amount not in excess of one-half of combined capital and surplus. The constitution of Kansas on the subject of taxation, prior to its amendment, read as follows:

"The legislature shall provide for a uniform and equal rate of assessment and taxation;" (exempt property listed)

At the general election in 1924 there was added the following:

"Except that mineral products, money, mortgages, notes and other evidences of debt may be classified and taxed uniformly as to class, as the legislature shall provide."

Pursuant to constitutional authority the Kansas legislature, in 1925, passed both money and credits and mortgage-registry laws. By the former, moneys and defined credits were made taxable at true value at a rate of 25c. on each \$100. Mortgages offered for registration were subject to the ordinary filing fee and a tax or registration fee of .25c. on each \$100 of the obligation secured and the mortgage and note thereby secured were not otherwise taxable.

If bank shares bore a heavier tax burden prior to the amendment of the Kansas Constitution, no serious complaint was made concerning it. But immediately following the enactment of laws pro-

viding for a low millage rate on money and credits and registered mortgages, national banks protested the collection of taxes on shares. Suits were filed in both state and federal courts. It was the claim of these banks, like similar claims advanced by national banks in earlier cases in Virginia, Wisconsin, Minnesota and elsewhere, that shares of stock were, under the tax laws of the state, taxed at a higher rate than competing moneyed capital, and this in violation of Section 5219 of the Federal Revised Statutes. Litigation, begun by the Central National Bank of Topeka, was the first decided. The Federal District Court for the state of Kansas decided that a sufficient showing had been made that competing moneyed capital in the hands of individuals and financial corporations was either taxed at the intangible rate or an initial tax paid thereon and such securities as registered mortgages were not otherwise taxable. The court found that shares in the Central National Bank were subject to an ad-valorem rate of tax and no deductions were permitted from the assessable value thereof save and except for real estate owned by the bank within the state of Kansas. The Central National Bank case was unusual from the standpoint of testimony offered. It consisted of the testimony of two lawyers. Counsel for another national bank in Topeka testified on behalf of the Central National Bank. He stated that an executor of an estate in the city of Topeka had funds of approximately one million dollars which were loaned; that various mortgage and loan companies in Topeka and elsewhere in the state loaned money in direct competition with the Central National Bank and this moneyed capital was taxed at the intangible rate and loans secured by registered mortgages were only taxed at 25c. on each \$100 of the obligation secured on registration and were not otherwise taxable; that the provisions of the moneys and credits law specifically excluded shares of stock in national banks from a rate of taxation similar to that paid by individuals and other corporations on intangibles. This, in brief, was plaintiff's case. A former attorney for the state tax commission testified on behalf of the defendants. He stated that individual investments in the state were not a material part of the moneyed capital employed in competition with national banks. This witness further testified that securities purchased by individuals were also purchased by both state and national banks in Kansas. This, in substance, constituted the testimony offered on behalf of the defendants. Thus, it will be seen that this case was tried on exceedingly limited facts. The court, nevertheless, found that a substantial amount of moneyed capital in the hands of individuals and corporations other than banks was taxed at a low millage rate and shares of the national bank were, by the laws of Kansas, subject to the general property tax. This was found to be in violation of Section 5219 of the Federal Revised Statutes. The decision, of

course, was in favor of the bank. Appeal to the Federal Circuit Court resulted in affirmance of the lower court's decision. Subsequently a writ of certiorari was denied by the United States Supreme Court. The state taxing officials did not fully awake to the full significance of this case until the decision became final. Consultations were held with the Attorney General to determine whether another case should be fully tried out on its merits; that is, to fully determine whether there was a substantial amount of capital competitive with national banks and taxed at a lesser rate. After fully considering this question it was concluded that no case could be successfully defended on this question. Instructions were therefore issued by the state tax commission to county treasurers of the state directing that refunds be made to all national banks which had protested the taxation of shares. These refunds were made on the difference between the intangible and general property rates.

The rate of taxation of national bank shares was thus settled, but during this interim of time state banks were not idle. One by one they adopted the practice pursued by national banks and protested taxes on shares. However, it was not until the fore part of 1929 that one Mr. Voran, a shareholder in a Topeka state bank, and on behalf of all other shareholders in the same bank, filed a mandamus suit in the Supreme Court to require the county treasurer to accept taxes on his shares calculated at the intangible rate. It was Voran's claim that the moneys and credits law created an unreasonable discrimination, in that national banks and their shareholders were relieved of assessment under the tangible property rate, and also that this law relieved other moneyed corporations and individuals engaged in like business from the burden of assessment and levy under such rate, and furthermore, that the money and credits law was unconstitutional, in that said law applied to the owners of intangible property rather than to the property itself, irrespective of owners. The Supreme Court allowed the writ prayed for by the plaintiff. Doing so, it held:

"The allowance for taxation of a deduction from the capital stock of an incorporated mortgage company of real estate mortgages that have been registered, as provided for by chapter 273, Laws of 1925, (mortgage registry law) is a discrimination against the stockholders of national and state banks which are taxed under the provisions of chapter 276, Laws of 1925 (bank share tax law) and are not allowed such a deduction." Syl. par. 4, *Voran v. Wright*, 129 Kans. 1; 281 Pac. 938.

Also:

"Chapter 326 of the Laws of 1927, known as the intangible tax law, violates the provisions . . . of the State Constitution, in that the rate of taxation it prescribed is not uniform and

equal, and that it does not classify and tax money and credits uniformly as to class." Syl. par. 6, *id.*

The peculiar feature of this decision was that the court declared the intangible law unconstitutional, but yet directed the county treasurer to accept taxes from Voran on his shares calculated at the intangible rate. Motions for re-hearing for the purpose of clarifying the court's decision were immediately filed and granted. In the second decision of the court it held:

"Where parts of a statute or section thereof can be readily separated, that part which is constitutional may stand, while that which is unconstitutional will be rejected.

"The provisos contained in section 1 of chapter 326 of the Laws of 1927 (intangible law) are capable of being separated from the remainder of section 1 and the other sections of the act without destroying or defeating the general purpose and intent of the act.

"The provisos contained in section 1 of chapter 326 of the Laws of 1927 are invalid and unconstitutional, being in violation . . . of the constitution of the state of Kansas.

"Chapter 326 of the Laws of 1927, known as the intangible taxation law, is constitutional and valid after having the two provisos contained in section 1 of the act eliminated therefrom." Par. 5 to 9 inc., Syl. *Voran v. Wright*, 129 Kans. 601; 284 Pac. 807.

Justice Harvey dissented from both of the opinions in the Voran case. In a lengthy opinion he concluded:

"Our constitution (sec. 1, art. 11) makes it the duty of our legislature to provide 'a uniform and equal rate of assessment and taxation,' but authorizes the legislature to classify and tax 'uniformly as to class' four kinds of property; namely: (1) mineral products, (2) money, (3) mortgages, (4) notes and other evidences of debt. A share of stock in a state or national bank, or in any other corporation, is not any one of these. It is a certificate evidencing the ownership of a unit of a corporate entity. (14 C. J. 388 *et seq.*; *Bank v. Geary County*, 102 Kan. 334, 170 Pac. 33; *Dutton v. National Bank*, 53 Kan. 440, 36 Pac. 719.) It is therefore not property of a kind which our constitution authorizes the legislature to classify for the purpose of taxation, and our legislature has not so attempted to classify and tax it. It necessarily follows that when its value is ascertained it takes the general-property rate. The value of the shares of stock in banks, both state and national, is determined in accordance with chapter 276 of the Laws of 1925 (which is the latest amendment of section 22, chapter 34, Laws 1876), which provides for their assessment. Hence, consider-



ing nothing but our constitution and this statute (Laws 1925, ch. 276), the general-property tax rate applies to shares of stock of banks without discrimination between those of state banks and those of national banks."

"In what situation does this leave us? Simply this: Under our present constitution and statutes, and giving force to the federal statute (Rev. Stat. 5219), as we must do, we cannot have a valid tax (that is, one not unlawfully discriminatory) on any property in the state at a rate greater than that which can be lawfully made on the shares of stock of national banks. This, as we have heretofore seen, is measured by the rate provided by our statutes for the taxation of moneyed capital in the hands of individual citizens of the state which comes into competition with the business of national banks, none of which is taxed at more than the intangible tax rate of 50 cents per \$100 valuation. We all know, of course, that if no property in the state can be lawfully taxed at more than 50 cents per \$100 valuation, the functions, not only of the state but of every subdivision of it, supported in the main by our general-property tax, will be seriously impaired." *Voran v. Wright*, 129 Kans. 601-621-623; 284 Pac. 807.

The second decision of the Supreme Court in the *Voran* case was announced on February 8th, 1930. Governor Reed of Kansas had, during the legislative session of 1929, recommended to the legislature the repeal of all intangible laws as a solution of the national bank problem. The legislature did not take kindly to this suggestion, but, following the decision in the *Voran* case extending the provisions of the intangible law to the taxation of state bank shares and the strong inference contained in Justice Harvey's dissenting opinion that tangible property, likewise, might be taxed at the intangible rate, Governor Reed concluded the time was appropriate to seriously consider the repeal of all of the state's intangible laws. The Governor, therefore, gave the matter most thorough consideration. Eminent lawyers of the state, the Attorney General and members of the legislature were consulted. Without material exceptions they agreed the conclusions to be drawn from the decision of the Supreme Court was that although shares in state banks were not within the provisions of the money and credits law, yet the same were subject to an intangible tax and the decision of the court, read in the light of Justice Harvey's dissenting opinion, through deductive reasoning, resulted in the further conclusion that tangible property might, likewise, be taxed at the same rate. Governor Reed, fortified by an opinion from the Attorney General that these conclusions were sound, called the legislature in extraordinary session for the purpose of repealing the intangible laws and in this way hoped to solve the bank-tax problem.

The special session of the legislature had no more than convened for the purpose of doing the Governor's bidding than one I. C. Stevenson forestalled immediate legislative action by filing a petition in mandamus before the Supreme Court alleging he was the owner of real estate in the city of Lawrence; that he had tendered to the county treasurer, as full payment of his taxes, a sum of money sufficient to discharge them computed at the intangible rate and the tender was refused. His prayer was for a peremptory writ issue requiring the county treasurer to accept the tender and to receipt in full for his taxes. The importance of this suit was evident. The Supreme Court announced it would immediately hear the case. Legislative action was immediately postponed. The case was presented to the Supreme Court and within an hour following arguments of counsel the court made an oral announcement the writ would be denied, and written opinion would be rendered at a later date. The Supreme Court's decision was answer enough that the intangible law did not extend beyond the taxation of intangibles. Strange as it may seem, after the court's announcement the legislature, nevertheless, repealed the moneys and credits law and also a law providing a low millage tax on secured debts (foreign and domestic, municipal and state debentures), but after a most heated debate refused to repeal the mortgage-registry law. It was naturally apparent that if the taxation of shares in national banks was to be at the general-property rate, all of the state's intangible laws had to be repealed. The failure of the legislature to repeal the mortgage-registry law thus left the situation no better than it was before.

Following the adjournment of the legislature, the Supreme Court, on March 19th, 1930, announced its decision in the Stevenson case. Its reasoning, though logical, was unusual. It was accepted by all that in the taxation of shares of stock in banking institutions the nature of corporate assets was of no particular concern; that if banking institutions were holders of large amounts of governmental securities or municipal and state securities in themselves exempt from taxation, that did not deprive the state in taxing shares on valuation, though such value was, in a large measure, predicated on such securities, and furthermore, that these exempt securities could not be deducted from the valuation of shares. The Supreme Court's decision well-nigh exploded this theory. In distinguishing between the taxation of shares in banking institutions and real estate the court stated:

"There is an old philosophical premise about the essence of things. The essence of a thing is its true nature, which classifies it. Speculative reasoning from the premise led to some absurdities, but the premise may be accepted as sound. The name of a thing does not change its nature. If the taxable animal has long ears, and brays instead of neighs, its essence

will not be changed by putting on it the label 'a horse.' In one case the court was asked to perform a feat of verbal acrobatics and call an oil refinery a branch penitentiary. (*The State v. Kelly*, 71 Kan. 811, 81 Pac. 450.) *In taxation we penetrate to essence; and if, in final analysis, that which is assessed and taxed consists intrinsically of intangibles, the burden of taxation may not be made greater by sticking in the bark of terminology."*

And:

"The statute provides for deduction from gross valuation of capital stock, surplus and undivided profits of real estate up to a certain amount, and the real estate is taxed to the bank under the general law. The assessed value, not the actual value, of the real estate is deducted. The net valuation thus ascertained is apportioned among stockholders. Getting our feet on the ground again, the law is a property-tax law. No jugglery with method of listing and valuation can change that fact. *The result is, net valuation set off to stockholders finally rests on intangibles, and rests on intangibles to such an engrossing extent that, for purpose of practical administration of the law, they characterize the valuation.*

"After rate has been applied to assessed valuation, the bank pays the tax. The bank absorbs the tax, deducts the amount in making its federal income-tax return, and it may be difficult for the uninitiated to see how, under the statute, shareholders can be taxpayers. They do, however, pay the tax on shares of stock in a sense which fully satisfies the state and federal law. It is not necessary to demonstrate the fact here. *The important question is, What is the essence of the burden which they bear?"*

(*Stevenson v. Metsker*, 130 Kans. 1. c. 260-261.)

The legislature, without benefit of the court's written opinion in the Stevenson case, amended the law relating to the taxation of shares in banking institutions and trust companies by embracing within its terms the taxation of shares of all forms of financial institutions, as well as individuals and partnerships engaging in loan and investment businesses. The purpose of such legislation was to provide a tax on shares interests as distinguished from a tax on corporate assets and separate property owned by individuals and partnerships. The legislature undoubtedly thought such an amendment would put a stop to litigation, although it was aware that national banks could take advantage, through Section 5219 of the Federal Revised Statutes in the taxation of national bank shares at a rate commensurate with the mortgage-registration fee. This the legislature confidentially thought national banks would not do, but

notwithstanding these anticipations, litigation began in greater volume than before. Suits were filed on behalf of shareholders in a state bank; shareholders in a mortgage company; shareholders in a trust company; an individual, as owner of withdrawal shares of a building and loan association, filed suit and finally an executor holding rural credit building and loan shares claimed the same to be exempt from taxation. The principal claim presented in the suits filed by shareholders of the bank, trust and mortgage companies was that corporate assets of the institutions named had to be taken into consideration in determining the assessable value of shares; that is, such assets, consisting of government and state securities and registered mortgages which were either exempt or otherwise taxed, were deductible from the valuation of shares, since, in accordance with the opinion of the Supreme Court in the *Stevenson* case, it was stated that in determining the valuation of shares the essence of corporate assets had to be determined. On behalf of the owner of withdrawal shares in the building and loan case it was claimed that the association's assets consisted principally of registered mortgages on which registration fees had been paid. Since the essence of withdrawal shares consisted of such property which was not otherwise taxable, withdrawal shares, which represented merely the form, could not be otherwise taxed. A similar claim was asserted on behalf of rural credit shares, and in addition thereto that such shares were specifically made exempt from taxation by a state law passed in 1915. These cases will be argued and submitted to the Supreme Court on November 5th, 1930. These and other cases are here referred to mainly for the purpose of disclosing the assertions, claims and litigation which have resulted through the enactment of intangible laws in Kansas and as legally challenged by national banks through protective provisions of Section 5219 of the Revised Statutes and otherwise. Probably no other state had had such an unusual experience as Kansas in the enactment of intangible laws.

Minnesota, though it enacted laws providing a low millage tax on intangibles as early as 1906 and 1911, experienced no litigation until about 1926 when the First National Bank of St. Paul questioned the right of the state to impose a tax on its shares in excess of the intangible rate. (*State of Minnesota v. First National Bank of St. Paul*, 273 U. S. 561.) Likewise, Wisconsin had no serious difficulty until litigation resulted in a case entitled *First National Bank v. City of Hartford*, 273 U. S. 548. Although the First National Bank of St. Paul was successful in its litigation, all state banks, and all but seven national banks, entered into a gentlemen's agreement with the taxing officials of Minnesota to pay the general-property rate on shares, affording the state an opportunity to work out a solution of its tax problem. Attempts in Kansas to adjust

differences on a gentlemen's agreement with the banks failed because at least half of the bankers refused to enter into such an agreement. National bankers, however, did express a willingness to pay a tax equivalent to twenty mills on the valuation of shares, but state officials found no statutory provision that could justify an agreement on such a basis.

The bank-tax controversy probably has aroused a greater interest in tax matters in Kansas than any other single matter. Owners of real property, if they were not fully aware that their property was unjustly bearing a greater portion of the tax burden than most property, have now become thoroughly aroused and know that such is the situation. To more equitably distribute this burden the legislature of 1929 directed its attention to and prepared a proposed amendment to the state constitution providing for income tax legislation. The proposed change provides:

"The state shall have power to levy and collect taxes on incomes from whatever source derived, which taxes may be graduated and progressive."

This amendment is to be submitted to the electors at the general election on November 4th of this year. It is hoped that it will be approved, for it is expected that income tax legislation will be provided for all corporations, as well as individuals. It is claimed, at least by national bankers, that a tax calculated on income distributes the tax burden on the fairest and most equitable basis. We, in Kansas, though hardly immigrants from Missouri, are willing to be shown. We are confident, however, that if an income-tax law can be passed pursuant to the proposed constitutional amendment, no such experiences will follow as that occasioned through the enactment of our intangible laws. We look forward with considerable hope that through an income-tax law a final solution of the tax problem in Kansas will be found.

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P. S. The proposed amendment to the state constitution of Kansas, permitting the state to pass an income-tax law, was defeated at the general election on November 4th, 1930, by a small majority of 35,000 votes. The defeat of the amendment was occasioned by the lack of time afforded to exponents of the amendment to properly educate the people in the necessity of such amendment. An independent candidate for governor, totally ignorant in tax problems, was one of the strongest opponents of the amendment. The amendment, unquestionably, will be resubmitted at the next general election, and even those who fought it most bitterly anticipate the amendment will be adopted at its next submission.

CHAIRMAN LONG: Mr. Randall, we want to thank you very much

for this contribution and hope some time you will have your well-merited vacation.

The subject is now open to discussion, and if there are any questions that anyone wishes to ask, or any observations that anyone desires to make, the Chair will be very glad to recognize that person.

PHILIP NICHOLS (Massachusetts): Mr. Chairman, I have just a few words to say. In regard to Mr. Blodgett's criticism of the present Goodwin Bill, I had supposed that the criticism would cover the new portions of the bill rather than those which are merely keeping in existence the present provisions. The bill, as you know, keeps in existence all the present methods, and then allows the states certain other alternative methods so they can tax banks if they prefer those to the existing methods.

He suggested, in the first place, that the reference to income was uncertain, that income might mean a great many different things. As a matter of fact, in the last section of the statute of the bill as drawn, the word is defined, for the purpose of the measure of the tax, as the net profits in a particular item of the federal income-tax return, so that that provision is definite. There is nothing indefinite about that.

Secondly, he referred to the confusion that would come, the complete loss of the measuring-rod in case in a bad year the business corporations suffer greater losses in the aggregate than they enjoy gains; but if you will examine the bill you will see that the measuring-stick of business corporations is confined only to those which made gains. Consequently, that situation cannot arise. I was astonished at his contention that the measure was not broad enough because it did not include insurance companies. Since it included the financial corporations, business corporations, mercantile and manufacturing corporations, the great mass of the corporations doing business in the state, it would seem that the comparison was broad enough, and that there is nothing to be gained by dragging in public utility and insurance corporations which are taxed by entirely different methods.

Now, he made a criticism in regard to the fact that the real estate taxes were included in the comparative. That was a concession made by the representatives of the bankers to an insistent demand by the representatives of the state tax commission. They said that the real estate should go into the comparative, although real estate taxes would be paid separately by banks, as they are now.

I made some study of the situation in my own state and found that it made very little difference because banks owned banking houses and paid substantial real estate taxes, and business corporations of course paid substantial real estate taxes, and they go in both ends of the comparative. It would perhaps increase the taxes

on the banks somewhat, but inasmuch as Senator Sullivan and his associates insisted upon that inclusion, the banks made that concession, as they had made various other concessions; and it was a little bit startling to have one of the tax commissioners throw it in our face that that concession has been made.

The remarks of Professor Jensen, I think, show very definitely what was admitted, that the general-property tax as applied to bank shares was excessive, that the tax on shares measured by the low-rate intangible tax was inadequate, and it was the purpose to find some form of taxing shares in states which do not want an income tax, which would be comparable with that imposed on other business, which would not be discrimination against the banks, but which would be substantially more than the tax on intangibles when they are taxed at a low rate.

It has been a very hard job. It has taken a considerable amount of time and thought on the part of both groups engaged in it, but I think it was the belief of those who did it that there had been found a way of taxing shares that did form the half-way point between the discriminatory tax and the unreasonably-low tax. And, after hearing all that has been said in the way of criticism, I still feel that in seeking that goal we came about as near as was practical at the present time.

MARTIN SAXE (New York): Mr. Chairman, Ladies and Gentlemen of the conference: I think when one makes a statement before this body of experts it might be well to qualify himself, and I beg your indulgence for a moment because of what I shall have to say briefly to explain my exponential capacity, because I have been acting as counsellor on taxation for the banks in New York.

The fact is, I started my experience in taxation as the assistant corporation counsel, in charge of the bureau for the collection of arrears of personal taxes in New York City, back in about 1902. I handled some fifteen thousand delinquent-tax cases. When the collector could not collect them they were turned over to the corporation counsel's office. From there I spent four years on the committee on taxation in the state senate. In 1915 I was chairman of the committee on taxation in the constitutional convention of the state, and president of the state tax commission, which office I resigned in 1917 to act as special counsel to the attorney general in the trial of the special franchise tax suits pending in the city of New York, in which we recovered some eight millions of dollars of dubious taxes. But, the best education I have had has been in the conferences of the National Tax Association. Now, I speak of that experience because of my relation to the problem of bank taxation as counsel for the banks of New York, because I have seen the other side of the question. I have been a tax administrator.

Now, Professor Jensen points out that it will be some time before we arrive at an ultimate solution of bank taxation, and I agree with him. The first step toward the ultimate solution of bank taxation is for the tax commissioners of the country to learn not to think in terms of revenue. There is the great trouble. Every time a tax commissioner thinks of the bank-tax problem, he thinks of it in the first instance in terms of revenue. Now, you have to put that aside in order to properly approach a solution of the problem.

As I said yesterday, at the conclusion of Dean Waterman's paper, we have noted that the courts have for years considered the practical operation and effect of tax laws. Now they are beginning to consider the economic aspects, and that is one of the great strides in advance. So, you have to think in terms of practical operation and effect and the economic aspect of these tax laws before you will reach a proper solution, an ultimate proper solution, of the bank-tax problem. And, just as soon as you can get in that frame of mind—and I appreciate from my experience that you do get a habit of mind as a tax administrator which almost forecloses that possibility—then I think we will find the way open for the ultimate solution of the bank-tax problem.

In the meantime I appeal strenuously to those tax commissioners who do not believe in the pending measure in Congress, that is, the Goodwin Bill, to lend a hand to their brothers in the other states who are advocating that legislation, as at least a temporary make-shift, to solve their problems for the time being, so that we may have constitutional bank taxes in those states where we now have serious legal questions.

PHILIP ZOERCHER (Indiana): What objection would there be to simplifying Section 5219 (U. S. R. S.) and providing that states do not tax national banks on any other basis than that used in taxing their state banks and trust companies?

MR. SAXE: You heard what Professor Jensen told you. I will tell you frankly, there is absolutely no protection to the banking business as such under such a proposal. Under the Fourteenth Amendment, which I have heard mentioned as the protection of the banks, should you have such a classification in the federal statute, there is absolutely no protection because the Fourteenth Amendment only provides for discrimination within the class, but it does not protect against a particular classification, a reasonable classification. Now the classification of national and state banks would mean a classification of the banking business, which would be a reasonable classification within the Fourteenth Amendment, but don't you see at once the banking business is out high and dry, it can be taxed to the limit, and where it can be taxed without any protection whatsoever.



MR. ZOERCHER: Do you think the states would do that?

MR. SAXE: I haven't the slightest doubt that they would do it, just as they are going the limit to tax bank shares today in the face of the more favorable taxation of other intangibles, other competing intangibles.

H. C. MCKENZIE (New York): Would you be willing to be classified along with real estate?

MR. SAXE: Don't laugh: you are a farm man, and you can only see things in terms of real estate and the position of the farmer. How can you classify an intangible like bank stock with real estate?

MR. MCKENZIE: You would be classified with the majority of taxpayers, who pay from 75 to 80 per cent of all the taxes in the state.

MR. SAXE: Not on the intangibles; not on the same property. It is a different kind of property. The trouble with your agricultural taxes is, the physical improvements are made and the local physical improvements are bound to be sustained by the local real property. It has to come from that, excepting where you can get a state or federal contribution. Now, I cannot see any comparison between the taxation of real estate and the taxation of intangibles.

OSCAR LESER (Maryland): Can you tell us why the banks were able to survive, without all this wet-nursing, for 57 years between 1864 and 1921, the date of the Richmond decision; and also why they are the only ones of all classes that need this special protection by Congress; and why shouldn't the railroads have such a protection? They are instrumentalities of government and a great deal more useful and necessary than the national banks.

MARTIN SAXE: I take my law from the United States Supreme Court and I have not heard them describe a railroad as a federal instrumentality.

OSCAR LESER: Did you ever hear of a government gobbling up the railroads during the war as a federal instrumentality?

MARTIN SAXE: Now you are talking of war measures, which is another thing entirely. When it comes to war, the banks will stand right in the front to protect the country, and they were the great avenues through which the Liberty Loans were sold in this country; and don't forget that.

CHAIRMAN LONG: I wanted to make this one observation in defense of myself and other tax commissioners, either past or present, that if we do think in terms of revenue, it is surely necessary for the harrassed taxpayer, even though it is a national bank, to think in terms of payment, which is revenue, in order to show that he is discriminated against.

MR. SAXE: I accept the amendment.

MR. RAMSEY (South Dakota): I am a national bank taxpayer, and taking up the point presented by the judge sitting in front of me, I want to say that even at the present time the national banks in our section of the country are instrumentalities of the government. It suggests our little bank, a bank of about half a million in deposits and twenty-five thousand dollars capital. It costs us over three thousand dollars a year to belong to the Federal Reserve System, which system, as experts all know, not only does the financing for the United States Government, and has done it for the last fifteen or sixteen years, but also pays for the printing and the issuing of the currency which you gentlemen have in your pockets, and that all comes out of our pockets.

We have on deposit in the Federal Reserve Bank in Minneapolis twenty-two thousand dollars in cash, for which we receive not one cent of revenue, not one cent of interest. We also have capital stock in that bank of twelve hundred dollars, for which we get only six per cent a year. Last year the bank earned over 21 per cent and 15 per cent was paid to the United States Government in the form of a franchise tax, so that on an amount equal to our capital stock we received the total sum of seventy-two dollars in return. On that twenty-five thousand dollars in capital stock we pay to the state of South Dakota a four-mill tax of one hundred dollars, so that it cost us eighteen dollars besides the loss of the use of twenty-five thousand dollars to belong to the Federal Reserve Bank System.

When Andrew Mellon, secretary of the U. S. Treasury, wants to borrow half a million dollars, he goes to the federal reserve banks, and through them to us, all over the country, small and large, and gets that all financed for absolutely no charges to the government. If the government were borrowing this money as corporations borrow it, it would cost the government eighty or ninety millions of dollars. So, I say, we are the fiscal agency of the government. We do need protection from adverse taxation by the states. My competitor across the street has an advantage in not belonging to the Federal Reserve Bank System. He has a state bank. He can charge exchange on every incoming item. We cannot do that. That means a loss to us of over two thousand dollars a year right there. We also have to clear the items of the banks all over the country free of charge.

So far as the remarks of Mr. Blodgett were concerned, he said they had no bank failures in Connecticut. Well, in the last ten years in South Dakota 63 per cent of our banks failed. In our particular town, when our two competitors failed, one of the big reasons was because they paid such high taxes. The rate at that time was the ad-valorem rate of 4 per cent, instead of 4 mills. And

I know our two competitors in 1919 paid enough taxes on their capital and surplus, if it had been invested in real estate in our town, to have paid the taxes on that real estate for 20 years. At the present time the taxes, on the basis of the 4 mills rate, with the valuation as the assessors finally put it on the real estate in our county, makes a sufficient payment of taxes on our part and on the part of the state banks as well, to pay for an equivalent amount of taxes on a fair valuation of real estate.

We want to be fair about this. We have had this up in our state. We presented it to our tax conference there. The cause of this entire situation is a lack of understanding of the true situation. On our side we have to come out and cry for relief, as the farmers have, and yet at the same time in our state we had ten times as great a percentage of bank failures as we had farm failures, but we have not cried for relief. We are a small class. All we ask of you is to give this thing fair consideration. Look at our side of the proposition from the standpoint of giving a fair deal. We want to pay an honest and just share of taxes; we want to pay just as much as we can to help the burden, and as much as any of you; but when I say to you that even at the present time less than 20 per cent of the banks in the state, both national and state, are making money after charge-off, I want to say we are entitled to just as much consideration as any other class.

H. C. MCKENZIE (New York): I hesitate to step into the breach here, but it does seem to me the other interests should not all sit quiet and allow the bankers to have a field day of it. The learned counsel for the bankers in New York has made the plea that the state official should not be revenue-minded in considering the matter of a bank tax.

Now, it seems to me that he has overlooked some of the very important aspects of the situation. I very distinctly remember a situation in our own state, not so very many years ago, when the representatives of agriculture wanted to reduce the state general property tax. It is well known to most of you men, I think, that the real estate in the state of New York is taxed about five or six times as much as all the other classes of wealth taken as a group. We thought we were entitled to relief. So, it was left to me to go to the speaker of the House and ask him whether he would not use his influence to reduce the state general-property tax, and he very promptly and emphatically told me that there was not going to be any tax reduction. Within two or three days there was introduced in the state legislature a bill which changed the method of bank taxation, which, as I recall it, cut the net revenue from the taxation of banks from about twelve millions of dollars to about six millions of dollars. So, the revenue from bank taxation is one of the vital features of that matter and cannot be overlooked.

Now, just to comment on what Mr. Cooke said in regard to this matter of bank taxation—I was very glad to hear him say that the bankers were not striving to get into a preferential position, that they did not want it, that they wanted to pay their fair share of the cost of running the government. I think that is the most admirable position, and I think it is the one that should be taken by all citizens of the United States; but, I want to call the gentleman's attention to two or three things. We still have the unadulterated general-property tax in the states. He is in the group with the great majority of taxpayers, those who pay the bulk of the revenue. Anywhere from 75 to 85 or 90 per cent of the revenue comes from taxes on real property. Now if he should be able to get out of that class, which in my judgment is one of the chief things they have been aiming at for a number of years, he will escape from the class of those who are most heavily taxed into another class where they are less heavily taxed, and in my judgment he is getting into that position which he repudiates—a favored position. I think when Section 5219 (U. S. R. S.) was modified the banks were successful in jockeying themselves into position where they could not be adequately taxed in the states without upsetting the whole tax system, and probably not even then.

Now, the argument that the bankers have been misused because they had been too heavily taxed, and that a great many banks have failed, may be true. I think the first speaker was eminently qualified to speak on that subject; but there are a great many other people who are in precisely the same condition. You people all know the condition of mortgages and the failures of people who own farms all over this western country. It is worse in my judgment than any condition that existed with the banks. Now, if we should let the banks escape from the class most heavily taxed, shouldn't we let the owners of real estate escape from that same class? Wouldn't the bankers be willing to take into Section 5219 (U. S. R. S.) a provision that real estate should not be more heavily taxed than the bankers—would they be willing? Or, if they don't want to get themselves into a favored position, would they be willing to vote for the repeal of Section 5219 (U. S. R. S.) entirely and let us all stand on an equal basis.

THORNTON COOKE: Mr. Chairman, I should like to tell Mr. McKenzie that one of the first articles I ever wrote about taxation was entitled "The Taxation of Farms and Banks." In that I recognized four years ago or more that the farmers had a tax grievance somewhat comparable to that of the banks. I said it again in addressing the American Bankers' Association at Cleveland the first of this month.

There is not time here, Mr. Chairman, to point out what I think most of those here will recognize, the fundamental difference be-

tween land and all other forms of property. That does not mean that those who cultivate the land should be stung and that an excessive burden should be laid upon them. If they now have such burdens, is it proper, Mr. McKenzie, to require banks to pay equivalent burdens? Then you have a repurcussion of another kind, which may impair the credit system of the country, and if you do, you impair those institutions which I still insist are the basis of the Federal Reserve Bank System, and which would make that bank something other than it would be if you did not require that compulsory membership in the system.

I should like to revert to Mr. Blodgett's able discussion of conditions in his own state of Connecticut. In his opinion the Connecticut national banks are not bearing an undue burden of taxation. It is the purpose of this conference, of course, and of the Committee of Taxation of the American Bankers' Association, to take a nation-wide view. For the sake of economy of the meeting's time this morning I did not read or even refer to a table I had. I think I made a mistake. I should like now to present to you some figures in a table showing the respective percentages of income taken by state and local taxation from various classes of corporations for the year 1926. No later figures are available. They were made available for that year only by the special courtesy of the Department of Internal Revenue. I think that they should be made for every year, but they have not been, so you have to take them for 1926, which is probably as good a year, for the purpose, as any we have had since. This table gives the number of returns for various classes of corporations. It gives the taxable net income but calculates out the total net profits. We accept the principle that banks cannot afford, in respect to income, to be taxed as measured by their total net profits and not their net income. It shows the percent of taxes to the total of net profits for these classes: for manufacturing it was 8.53, for trade 10.63, auto finance 6.03, other finance, which is a special classification, such as loan associations, mortgage and bond brokers, 4.70. The average for these classes was 8.60. The percent of taxes for national banks was 15.14; for state and private banks 15.31; for other banks which is a treasury classification, including trust companies and savings banks, 12.52. Taking all those banks together, it is 14.17.

MR. MCKENZIE: Have you the figures for agriculture?

MR. COOKE: I have not the figures for agriculture. There is frankly no time to argue that point this morning, but I do not consider them comparable. You know very well the basis of real estate varies from one county to another, from one block to another. You cannot make a controlling comparison with them. What is there in the banking business that should bring it to the public

interest to exact two and one-half to three times as much from their earnings as finance companies? It is not fair and it is against the public interest. Now, this House bill is advanced. It is not what the representatives of the states on bank taxation call the finality, it is not what the banks would have written. We make compromises step by step. It is a movement in favor of public interest. Those yardsticks in the bill will be fair if adhered to. It seems to me no one should state that the tax burdens cannot be measured in proportion to income, when Massachusetts has been doing it successfully for half a dozen years. I am speaking now of general business corporations. We haven't time to argue any further the difference between insurance companies and banks and manufacturers and utilities. Banks and wholesale stores and rock crushers go into business to make money. Their taxes should be compared on a basis of what they make.

CHAIRMAN LONG: Mr. Blodgett, did you wish to speak?

MR. BLODGETT: Only to inquire from Mr. Cooke if the figures mentioned by him were the same figures that were put into the record at the congressional hearing on May 9th.

MR. COOKE: They are practically the same. Even while these are calculated on the basis on which they would be used if this bill were enacted—and it was necessary to make the comparison on a nation-wide basis—of course, practical operation would be on the basis of the state. These are based only for those corporations having net incomes or net profits; and as Mr. Nichols informed you, only such things as may be compared. I will be glad to send to anyone who desires a table of percentages for each state in the country, both on the basis of combining profit and non-profit concerns and those of profits exclusively. I shall be glad to send you a table showing the percentage for each state in the Union so each one can see for himself what it will figure out for that particular year. I understand in comparing tax burdens by classes, banks with manufacturers and others, if it appears that the others sustain heavier losses in a period of years than the bankers—vastly heavier—and if you are going to use only the corporations in the manufacturing group, if we are comparing that group, and that group sustains very heavy losses, and you exclude the corporations which do sustain losses and compare only those which make profit and have gains, it does not seem to me that that is a fair way to approach the problem of tax burden as between groups.

It will interest Mr. Blodgett, Mr. Chairman, to know that he can find out by referring to the tables that the relationship is almost precisely the same. That is, with what you gain in non-profit companies along with profit companies, national banks and all banks together still show that 50 per cent more of their income is taken, and two and one-half times over finance corporations.

MR. BLODGETT: If Mr. Cooke says this is a national compilation, when you come to dealing with your state law, to make it work with national banks in your state, you have a state problem, so that you have to deal with each state separately. At the hearing in Washington on May 9th he placed in the record figures relating to Connecticut. All losses of manufacturing companies were excluded, so it appeared banks were sustaining a higher burden of taxes by those figures than were the manufacturing companies. Well, figures are figures; and statistics, if you handle them right, will show what you want to show. It appeared there the banks were excessively burdened over manufacturing companies, but examination of the records in Washington as we have done in Connecticut, and putting them in taking losses indicates precisely the reverse result, which is the actual result if you want to really compare these classes as a whole.

Now, there was one other point. In my remarks upon the point that taxes upon banks were different from taxes on shares, nothing was said, as I remember, by anyone prior to the time Professor Jensen spoke, but that the owner of the shares was to pay the taxes himself. I did not indicate in my talk that the bank was necessarily to pay the taxes out of its capital or surplus or undivided profits; so that I still adhere to the notion that if the share owner pays his own taxes, it cannot be construed as a burden upon the bank. Just that explanation.

MARTIN SAXE: Do you know a case where the share owner pays the tax himself, in Connecticut, or any other place?

MR. BLODGETT: That is what I was talking about. I did not refer to anything else.

MR. SAXE: The other was a thought of a different character.

MR. BLODGETT: Something has been said here about the economic aspects in the case. In Connecticut we have two sources of productive wealth, agriculture and manufacturing. I should put manufacturing first. It seems to me if we are looking at the aspect of economics that we should give consideration to the sources of productive wealth. Let me illustrate: If someone should find an oil well in the remotest section of the country, workmen would come to that well; soon there would be a store; there might come very soon a bank; there might come a public utility, because a community has started there. If consideration be given to this subject from the standpoint of economics, we must foster our sources of productive wealth, and not discourage that. These activities merely facilitate the carrying on of business and are necessary for it. But, if you discourage your manufacturing and you discourage your mining and you discourage your farming by heavy tax burdens,

you are doing a thing which is not healthful to your community. There is no doubt about that. Notwithstanding what is said—and I do not favor imposing taxes on intangible property at the property tax rate—there ought to be some relation between the intangible property tax rate and the rate applicable to tangible property. That is a problem which I think the economists of the country might well study and work out to the advantage of this Association.

PHILIP ZOERCHER (Indiana): I just want to talk a few minutes from the administrator's standpoint. In 1919 when we passed our new tax law providing for 100 per cent valuation as nearly as could be gotten, the valuation in the state of Indiana was increased two and one-half times. When we came to valuing bank stock in one community I saw from the report of a bank that they paid a thirty per cent dividend. I also saw that the bank had only set aside ten per cent of its earnings as a surplus, and I went to the banker, who was a personal friend of mine at that time, and I said to him, "Why don't you accumulate a surplus so that your surplus will at least equal your capital?" "Well," he said, "we don't want to pay taxes on it." Now, the sale value of the stock was four times what the book value was and yet we had been assessing the book value. After I got that answer I spoke to the other two members of the board and said, "Let us apply the rule of assessing this property at what it would sell for." That is what we did. We allowed six per cent on the capital invested, the capital stock, plus the twenty-five hundred dollars surplus, and on the excess of dividends paid by them, we capitalized that and added it to the surplus and taxed it at that basis. We did that for about two or three years. Finally, when another member came on the board, he objected to that and finally we compromised with the bankers of the state of Indiana, and agreed on the assessing of the stock then at its true cash value, and the objection that was made then was that we were assessing it too high. But, one of the bankers one time said to me, "Say, Phil, don't you know you did me the greatest favor that you ever did. We have a few dividend hogs or stockholders in our bank, and I could not accumulate a surplus, but when you folks capitalized our excessive dividends, we were then permitted to accumulate a surplus." Later on they increased their dividends because the dividends were not only on capital stock but on the capital, surplus and undivided profits.

Always, until recently, the bankers' committee came to our board and said, "We are not satisfied," but they have now brought a suit, and this is what we have: In our state we assess the shares; the assessment is against the shares of stock. We have in our state the right of deducting debts from credits. There is a suit, filed and pending now in our courts, that a shareholder has brought claiming that we are not allowed to deduct their debts from their shares of



stock. You need not send this word home, but this fellow who is plaintiff in the case, after the suit was filed, did not return any debts at all, and yet he is claiming that we do not allow a deduction of debts from credits. Now, the deducting of debts from credits is greatly over-worked. Recently, in a particular connection, I suggested the idea that we had proposed in our original bill—and I hope some time that the state of Indiana will adopt that section of law—allowing a man to list all his credits and then allowing him a deduction of 75 per cent, and tax him on the remaining 25 per cent without the right of deducting debts from credits, because when he gets 75 per cent deduction he ought to be satisfied. A report we had recently, a large concern, on the first of January—reported absolutely no liabilities and no debts, and two months later they owed \$1,900,000, and had receivables amounting to \$1,600,000. They would have been taxable on their receivables if they had no debts to deduct. And, what did they do with that \$1,900,000? They invested it in non-taxable securities. When we looked into that we found they had \$3,900,000 in government securities; so that offset the other.

MR. SAXE: Did the bank do that?

MR. ZOERCHER: The shareholder could do that, couldn't he? No, the bank could not do that, but with the suit pending in the state of Indiana every shareholder can create a fictitious debt, in having short-time certificates that the government sells, or tax-exempt securities, borrow the money to buy those, and then he can deduct it, and bank stock can be taken off the tax duplicate entirely.

It is up to the banker as much as everybody else. The question of taxation is one that is coming home to every citizen in the country. They ought to work in harmony, and not tear the whole taxing system of the state to pieces as they are attempting to do in some of the states.

OSCAR LESER (Maryland): I have a question I would like to ask Mr. Cooke.

THOMAS B. PATON (New York): Mr. Cooke had to go.

MR. LESER: I will ask Judge Paton.

CHAIRMAN LONG: Judge Paton has a good knowledge of the bill.

MR. LESER: The figures submitted by Mr. Cooke in that table of course include the tax on shares?

THOMAS B. PATON: The figures in the table compiled were the taxes paid by the banks on shares and on real estate.

MR. LESER: Yes. Now, inasmuch as the table includes taxes paid on the shares by and on behalf of the shareholders, do the

taxes on the other classes of corporations include the taxes paid by the stockholders of those corporations?

MR. PATON: The stockholders pay taxes.

MR. LESER: They pay taxes when they are foreign corporations; they pay taxes on shares when the shares are held in the other states.

MR. PATON: Those tables are made up by the returns of the Federal Government of the total taxes paid by corporations other than taxes to the Federal Government. That is, the total taxes of all kinds paid to the states by the corporations.

MR. LESER: But not by the stockholders of the corporation on their shares?

MR. PATON: By the corporations only.

MR. LESER: Then, if you make a comparison to determine the real truth of the burden on the national banks, would it not be necessary to include also the taxes paid by and on behalf of the shareholders of all the mercantile and manufacturing and business corporations?

MR. SAXE: Most of the states do not tax them.

MR. LESER: That is not an exact statement. Our state taxes the shares of foreign corporations.

MR. SAXE: How many states outside of Maryland do it?

MR. LESER: The point is, they are not included, and therefore your table is not reliable. You must include the taxes paid by the shareholder or for the shareholder in the other corporations.

I. A. ACKER (North Dakota): I come from a state where many of you men undoubtedly feel that the people would be in sympathy with the banks. We have had a lot of bank failures in North Dakota, but I am not in sympathy with the bankers. I believe that this bank-tax problem should be approached in a reasonable and fair way. We realize in North Dakota that we need banks, we need state banks and we need national banks. In the communities where banks no longer exist, that need of course is especially felt.

Now, in North Dakota we exempt surplus to the extent of the capital stock, for the purpose of encouraging the banks to build up their surplus. Our state banks have been subject to the income tax, and in that way have been subject to discrimination. I am recommending this year that the state banks be placed upon a parity in matters of taxation with national banks.

There is one thing I want to emphasize, and that is this. I do not believe, in my state at least, that excessive taxation has caused the

failure of a single bank. In the first place, the deflation which was caused by the Federal Reserve System was responsible for the frozen assets and the frozen credits that the banks there could not move. They deflated the farmer and they deflated themselves and the banks failed.

Now, another thing, in North Dakota we had altogether too many banks. In 1918 and 1919, when a new political party came into power there, they organized new banks all over the state, and of course weakened existing banks. We have come to recognize that we need fewer and stronger banks. Now then, as far as taxation of banks is concerned, it seems to me this should be true: The bankers and the tax commissioners and the tax attorneys should not approach this problem from the standpoint of controversy, but approach it from the standpoint of fairness and justice and from the economic standpoint.

The statement made by Professor Jensen that when a bank is taxed the share is virtually taxed, is possibly true, but if we tax stock in a corporation in the name of a stockholder we are certainly not taxing that corporation. We cannot collect anything from the corporations, and in that sense at least Mr. Blodgett's statement is correct.

It seems to me that bankers are taking an unfair and unreasonable attitude on this matter in these western states. Are they going to ask states like ours to revise our existing tax laws and go back to the general property tax in order to suit their tax requirements? Certainly a national bank or state bank has privileges and immunities that no other corporation has. We all recognize that. And, it seems to me that when the Bankers Association is taking the attitude of a dog in the manger and saying that we have taxed them on this low intangible value, when for years and years the communities have relied upon a certain amount of tax from banks to maintain their schools and run their government, they are going just a little too far. They are striking at state sovereignty.

If the state is subject to a mandate of the bank and has to set up a tax system that suits the requirements of the bank, then I say we are going very far in the direction mentioned by the professor who spoke the other day and said we should abolish the state government entirely. It is a dangerous situation. I am not in favor of abolishing state government, but I believe the bankers should be a little more fair on this proposition. They should meet us half way. I can see feeling in this assembly between the bankers and the tax commissioners. It is a feeling that should not exist. You are meeting in conference, and in an orderly and reasonable way. It seems to me the bankers themselves should meet us in a better spirit than they are doing.

THOMAS B. PATON: Let me answer that. Meeting in the spirit of fairness, we have been endeavoring to reach a compromise by which the state of North Dakota instead of being limited to this low intangible rate can get a fair and adequate rate from the banks. That is just what we are trying to do. The new bill provides just that.

MR. ACKER: We don't tax intangibles at all in North Dakota.

MR. PATON: You are a general-property state. Then we leave you alone as you are.

MR. ACKER: We made it our law but the law of 1919 was declared unconstitutional. Then they passed a new law in 1923, and our law provides: That we are required to tax all capital in exactly the same way as we tax the shares of a bank. How in the name of common sense can we determine what is competing capital, Mr. Paton? I don't think you know either, get right down to that.

MR. PATON: I don't.

MR. ACKER: I don't think any man does. Now, our law is weak in this respect. Every man is required to report to the tax commissioner, who determines what the value of the shares of that bank is. We exempt surplus now to the extent of the value of the stock. If the capital is \$100,000 it can pile up a surplus to that amount. That is exempt. It is considered in arriving at the value. The only thing we tax so far as a bank is concerned, is the book value, the par value of that stock. Then we deduct the real estate; then the difference is the value of the stock for taxing purposes. Now then, we do not tax intangibles. We have an income tax but national banks are not subject to that income tax. Now, the only possible thing, Mr. Paton, that could save us is this: We don't tax the income of banks, and then we give an exemption of surplus to the extent of capital. Now, those privileges, if we can take it to court and show it, may place you in a position of parity with farmers or with corporations and with persons owning intangibles. As far as farmers are concerned, they are taxed out of sight. There is no question about that.

CHAIRMAN LONG: Does anyone else wish to discuss the matter?

(Motion to adjourn and duly seconded)

CHAIRMAN LONG: The meeting will now adjourn.

## INCOME TAXES

## SUMMARY OF ROUND TABLE DISCUSSION

A. R. MORSE, GROUP LEADER

Income Tax Attorney, Missouri State Auditor's Office

MR. A. R. MORSE, of the Missouri State Auditor's office, presided over the Income Tax Group at a round-table discussion of Income Tax Administration.

REYNOLDS E. BLIGHT of Sacramento discussed the perplexing problem of allocating net income where business is transacted within and without the state, which was of interest, for this difficulty must be met with in every state imposing an income tax. According to the speaker, California provides a broad, pliable method of allocation. Into it enter as factors, sales, purchases, expense of manufacture, payroll, and value and situs of tangible property. If other methods clearly reflect the income attributable to the state, the commissioner is authorized to consider such method. If the commissioner does not accept the allocation made by the taxpayer, he is required, upon the request of the taxpayer, to disclose the method used.

As a guide to taxpayers, the California commission provides in the return for the determination of the allocation percentage by the use of three factors; real and tangible property within and without the state; payrolls within and without the state; and sales within and without the state. The percentages within the state of these three factors are totaled, which total is divided by three, the resultant percentage becoming the percent of the net income allocable to California.

The speaker stated that California undertakes to interpret "doing business" in a state. When an office is maintained, agency or branch, where its functions are systematically and regularly carried on, the maintenance of a branch office, he stated, brings the corporation under the tax-levying authority in the state in which the branch office functions, and as the purpose of allocation is "to avoid subjecting the taxpayer to double taxation," the right of the taxpayer is unquestioned.

Mr. Blight further discussed the tendency of some taxpayers to claim profit made is not evenly distributed over the various functions of the business—that the buying of raw materials is more productive of income than selling, or that more income should be attributed to the manufacturing end than the selling end, or vice versa. He stated that the commission uniformly denies such contentions, holding that the transactions must be considered as a unit and that every part of the operation is necessary to the production

of the profit. In regard to this policy the speaker cited the case of *State v. Hans Rees' Sons, Inc.*, 153 S. E. 850.

MR. LYMAN A. BAKER, deputy commissioner of North Dakota, said in part that the North Dakota State Income Tax Law, enacted in 1923, closely follows the National Tax Association Model Law, but provides for tax on unincorporated business only through personal income tax. It was found, in administration of the law, that the exemption of non-residents from income taxes created much dissatisfaction, and was the cause of many residents establishing residence outside of the state in order to escape taxation. This provision of the Act was amended in 1929, and non-residents are taxed on all income from sources within the state, full exemption being allowed against such income.

Exemptions of \$1,000 for single persons, \$2,000 for married persons, and a credit for dependents of \$300 each are granted. Corporations are granted no specific exemption. Individual rates progress from 1% to 6%; corporations are taxed at 3%.

National banks are not taxed for income taxes, but state banks pay income taxes as well as an ad-valorem tax on shares of stock. No attempt has ever been made to correct this situation. Insurance companies paying a gross receipts tax are exempted from income taxes.

The State Tax Commissioner, Mr. Baker asserted, is charged with the enforcement of the Income Tax Act, with the assistance of an office force, and by the operations of "tax supervisors" appointed in each of the six judicial districts, who combine their activities with supervision of the general-property tax. Considerable difficulty has been experienced in making necessary field audits, due to lack of appropriations for travel, and to the lack of training of supervisors, and their dependence upon political appointments for their position. The state departments depend largely upon federal audits, and federal regulations in administering the State Income Tax Law.

The speaker stated that considerable difficulty had been experienced in arriving at taxable net income of corporations operating both within and without the state, specifically railroads, telephone companies, chain stores, and manufacturers producing within the state and selling without the state through the medium of a sales organization, the state department admitting that it is practically helpless under the present act.

The North Dakota State Income Tax produces approximately \$550,000 in revenue annually, at a cost of administration of 2.2%.

W. R. BRADLEY, Director of Income Tax of the South Carolina Tax Commission, gave a history of income tax administration in that state and emphasized the absurdity of administering an income tax law without adequate appropriation and well-equipped personnel.

He stated that South Carolina was a pioneer in income tax legislation, having passed an income tax law in 1897, the administration of which devolved on county treasurers with the supervision of the comptroller general, no provision having been made for the office and field audit of returns other than such audits as could be made by the county auditors and treasurers. As a result, the income taxes collected from 1898 to 1914, inclusive, amounted to only \$147,894.11, the rates under the law ranging from one to three per cent.

The speaker stated that after the creation of the tax commission in 1915, the legislature placed the administration of the income tax law under it, and although no machinery was provided, the collections for 1915 more than doubled any other year's collection.

In 1922, he said, a new income tax law was passed whereunder federal income taxpayers were required to pay to the state one-third the amount of tax required to be paid the national treasury under the Federal Income Tax Act of 1921. Appropriation was made to enforce the law, and as a result the commission collected in additional taxes, after all returns were filed from 1922 to 1929, \$2,049,973.62. The cost of maintaining the division during these years amounted to \$440,657.61. The amount of income taxes collected during this time was \$14,361,973.62.

The speaker stated that the 1922 act was unsatisfactory for the reason that the state could not gain access to individual returns made to the Federal Government, and therefore had no way of ascertaining when additional taxes were assessed. When the Federal Government made refunds, a like refund had to be made by the state, but when additional taxes were assessed, the taxpayer allowed the state to discover it the best way it could.

This situation, he said, brought about the Act of 1926, which is independent of the Federal Act.

MR. MERRILL, of the New York Tax Commission, spoke of the problems the tax commission had met with in that state. He explained New York's method of allocating net income to corporations doing business within and without the state.

Mr. Merrill was very decided in his views as to the prerogative of a state to tax all the income of a corporation attributable to a state. It is his idea that the United States Supreme Court will not countenance devices of taxpayers doing business within and without a state used for the purpose of allocating income entirely to the advantage of the taxpayer and to the disadvantage of the state.

His advice to income tax administrators was that where it is clear that taxpayers resort to such devices, and where the cases have gone to the courts, that tax commissions see the cases through to the Supreme Court of the United States—that this court of last resort

may more nearly be depended upon to decide equitably in such cases than the lower courts.

MR. L. D. THOMPSON, state auditor of Missouri, praised the Missouri Income Tax Law, stating that the Missouri State Income Tax Law became effective in 1917, with rates of 1% on both individuals and corporations. This was increased in 1919 to 1½%, but lowered to 1% again in 1921. Although a change was made in the Act in 1929, clarifying certain provisions as to what constituted income for state taxation, the rate still remains at 1% for both individuals and corporations. Individuals are allowed an exemption of \$1,000 for single persons, \$2,000 for married persons, with a credit for dependents of \$200. Corporations are allowed no exemption. Net income is computed practically the same as under the federal regulations.

He said that the Missouri State Income Tax Law is enforced through county officials, under the supervision of the state auditor, and with the assistance of ten field men, appointed by the state auditor. A fee is paid each county official for each return taken by him, and commissions for collections are paid on the same basis as are paid for other tax collections. The field men operate from information returns filed by employers, together with lists of federal income taxpayers, and with the cooperation of county officials.

Collections of Missouri State Income Tax in 1929, he stated, reached a total of \$4,252,490, an increase over 1928 collections of \$544,885, due largely to changes in the Act, as previously mentioned, and the operations of the field men.

MR. J. B. KIEFFER, of the Income Tax Division of the Georgia tax commission, talked interestingly of Georgia's problem. This state, he said, passed an income tax law something similar to the South Carolina Act of 1922, whereunder it is required that federal taxpayers in Georgia are required to pay one-third the amount of tax required to be paid to the Federal Treasury to the state of Georgia.

The difficulties, he said, that the commission is meeting with in administering the law arise from the fact that the law lacks adequate provisions for allocating net income to businesses operating within and without the state.

He expressed himself as being in favor of an income tax act for the state independent of any federal act.

Interesting discussions of the many phases of income administration were entered into by Mr. W. L. Correll and Mr. N. J. Wattenbarger of Missouri, Mr. R. L. Palmer of New York, Mr. Geo. M. Hagee of St. Louis, Mr. J. Bryan Gross of St. Louis, and others.



## INHERITANCE TAXES

## SUMMARY OF GROUP DISCUSSION

SETH T. COLE, GROUP LEADER

Deputy State Tax Commissioner of New York

The discussion was participated in by representatives of fifteen states and the province of Ontario. In the main, the discussion centered about practical problems arising in the administration of death-tax laws and consisted of an exchange of viewpoints among those present.

MR. RAY L. RILEY, controller of the state of California, presented the problem involved in the creation of non-resident trusts which become subject to death taxation at the domicile of the trustor. He pointed out that in such cases it may be impossible for the state of domicile to enforce its death tax because of lack of control over any of the property included in the trust estate. The problem is similar to but not exactly the same as that involved in the estate of Alice C. Martin, now in litigation in the New York courts, reference to which will be found in the proceedings of this conference in the discussion by Mr. Cole of the paper reviewing leading tax decisions presented by Mr. J. S. Waterman, dean of Law School of the University of Arkansas, at the fifth session on Wednesday morning, October twenty-second. It was the consensus of opinion that action by the states should be withheld pending the final outcome of the Martin case. When that case is settled it may be found advisable to launch a campaign for reciprocal laws or to take such other action as may be deemed advisable to effect a remedy.

MR. WILLIAM D. KELLY, state supervisor of the Transfer and Inheritance Tax Bureau of New Jersey, discussed the difficulties in which inheritance tax administrators have become involved because of the shrinkage in values of estates due to the slump in the stock market. In many instances, there has been a depreciation in values between the date of death of a decedent and the date when the death tax is determined of fifty per cent or more. In some cases, values have decreased to such an extent that the residuary legatees have actually received nothing, although on the basis of values as of the date when the decedent died there was a large residue. It developed that in some instances it is being contended that where legatees actually receive nothing there can be no tax, even though on the basis of values at the death of the decedent such legatees would have received substantial amounts. It also has been claimed that where there has been a substantial depreciation in value subsequent to death the valuation should be made as of the date of distribution

instead of as of the date of death. The discussion disclosed that invariably values are determined as of the date of the decedent's death, but that there are different methods of arriving at such values. In some cases, values are averaged over a reasonable period, both before and after death, but in the majority of cases values as of the date of death are taken. Mr. Kelly pointed out that there is little difference in principle, so far as the legatees are concerned, between a shrinkage in values occurring after death and a shrinkage in the estate due to peculations on the part of the executor.

MR. LINN L. REIST, of the Pennsylvania Department of Revenue, discussed the relative merits, from the administrative standpoint, of the estate tax as compared with the inheritance tax. In this connection, the subject of the taxation of contingent transfers was considered. One of the main reasons advanced in favor of the estate tax was that difficulties with relation to the taxation of contingent transfers are eliminated thereby. In some jurisdictions, a fairly satisfactory method of handling the contingent transfer under an inheritance-tax law is by means of a provision whereby taxes upon contingent transfers may be compromised by agreement.

Considerable time was devoted to a discussion of the provision of the Federal Estate Tax Law which allows a credit against the tax thereby imposed up to eighty per cent thereof for death taxes paid to the states. The possibility of conflicting claims to the eighty per cent credit by two or more jurisdictions was canvassed. It appears that thus far no real difficulty has been encountered because of the willingness of the death tax administrators of the various states to get together and compromise their claims. Should any state assume a stubborn attitude very interesting legal problems may develop.

The status of death-tax reciprocity was discussed with particular reference to those states which have not as yet enacted reciprocal laws. In some of the latter, there was apparent a willingness to cooperate in the reciprocity movement and fair promise that reciprocity laws will be enacted during the year 1931.

That questions relative to the domicile of decedents are among the most perplexing which confront the death tax administrator was conceded. Particular cases involving domicile were presented and there was a general discussion of the principles upon which domicile is based.

Among those who participated in the discussion, other than those already mentioned, were Mr. W. T. McConnell, inheritance tax attorney of Oklahoma; Mr. L. M. Riely of New York; Mr. C. B. Ullum, inheritance tax administrator of Indiana; Mr. W. K. Montague, assistant attorney general of Minnesota; Mr. Jonathan M.

Steere, vice-president of the Girard Trust Company of Philadelphia, Pa.; Mr. John V. Wicklund, chief examiner of inheritance taxes of Iowa; Mr. W. E. Baird, public accountant of Kansas City, Missouri; Mr. S. W. Timmons, inheritance tax clerk of Kansas; Mr. Walter Pleasant, chairman of the State Tax Commission of Kansas; Mr. W. N. Clawson of Lawrence, Kansas; Mr. E. T. Ward of the Bank of Montreal; Mr. J. T. White, controller of currency of the Province of Ontario; Mr. Harold W. James, inheritance tax attorney of Rhode Island; Mr. Joseph Ryan of the Equitable Trust Company of New York, and Miss Grace E. Killian, of Kidder, Peabody & Company, Boston, Massachusetts.

## SALES AND EXCISE TAXES

ROY A. LITTLE, GROUP LEADER

Director, License Tax Division, South Carolina Tax Commission

About twenty people were present and participated in the discussion of excise taxes. The chairman opened the discussion by explaining the consumption or excise tax laws of South Carolina. Practically every one present requested information as to administrative features of the soft drinks and tobacco tax laws which have been in effect in South Carolina for several years. From sentiment expressed and questions asked it was evident that real property was being excessively taxed and that selected commodity taxes offered the way for relief to general property.

Those taking part in the general discussion were: John E. Brindley, professor of Economics, State College, Ames, Iowa; Frank H. Sterling, chairman, State Board of Assessors, Augusta, Me.; Mrs. Paul Gamble, of Research Commission, Greenville, Miss.; W. S. Booton, director, Excise Tax Division, Nashville, Tenn.; John A. Smith, director, Gross Receipts Tax Department, Atlanta, Ga., and others.

Mr. John A. Smith, director, Gross Receipts Tax Department, Atlanta, Ga., gave a very interesting résumé of the gross receipts tax in Georgia and indicated that the law was not producing the revenue that was anticipated and needed some amendments; otherwise it was proving very satisfactory.

## EIGHTH SESSION

THURSDAY, OCTOBER 23, 1930

2:30 O'CLOCK P. M.

THEODORE S. CADY, presiding.

CHAIRMAN FAIRCHILD: Don't you think it would be well if you gentlemen in the back of the room would come forward to some of these vacant seats? The speakers will appreciate it and you will find it easier to hear.

Before we start the afternoon program I will ask Mr. John C. Watson of Illinois to make an announcement regarding the Farm Bureau meeting tomorrow.

JOHN C. WATSON (Illinois): Ladies and Gentlemen: I wish to make a definite announcement concerning the meeting which the American Farm Bureau Federation is calling at the close of this convention. By reason of the fact that the Tax Conference was expected originally to close tomorrow forenoon we had planned to hold that meeting tomorrow afternoon. Because of the closing of the National Tax Conference this evening, our meeting will begin tomorrow morning at nine o'clock, in Room 225 of this hotel.

I wish to say this, there is no set program. The Farm Bureau is not trying to sell any program to anybody. It is merely asking the people who are interested in trying to develop a program and looking forward to some action for the relief of property, which is now most oppressed, and I am referring now not to farm property but to real estate, to meet and discuss this thing and have an interchange of ideas looking forward, perhaps not immediately but at some time in the future, to an agreement. I hope that this will be the first of a long series of meetings of this kind. An invitation goes to anyone who has that interest. Special invitations were sent to some. We did not know who would be here. A large number have been sent out. Now we hope that everyone who is interested will come and express his ideas. No one will be bound by any action that is there taken. There is no desire to bind anyone. It is to be merely a free interchange of ideas on a definite subject, or subjects such as will be taken up at that time.

FRANKLIN S. EDMONDS (Pennsylvania): May I ask, is it expected to be an all-day conference or just the forenoon?

MR. WATSON: As to the length of time which it may last, personally I doubt very much whether it will extend beyond the noon hour, although it might do so.

CHAIRMAN FAIRCHILD: May I remind the conference again that it is now planned to adjourn the conference finally after the session tonight. We have so telescoped things that everything provided for tomorrow morning can be taken care of by that time. It does mean we will have a full program this evening, and I propose that the session begin promptly at eight o'clock, and I will appreciate your cooperation in making that possible, as I have most thoroughly appreciated that cooperation all through the week.

The session this afternoon is divided into two parts, with two different presiding officers. I am very glad indeed that Mr. Cady presides over the first half, because it gives me an opportunity which I have been looking for all week, to say in behalf of myself and the members of the conference a word of appreciation for the courteous hospitality which we have enjoyed in Kansas City this week. I do not recall any previous conference at which the arrangement for the comfort and convenience and pleasure of the delegates has been more carefully worked out or more successfully executed. You all enjoyed the banquet last night, I am sure. You have appreciated the arrangements made for our meetings. You have appreciated the entertainment which has been furnished us, especially the ladies. I am about to present as presiding officer, for the first half of this session, Mr. Theodore Cady, the chairman of the local committee on arrangements, and in presenting him to you I wish to express to him our sincere thanks and appreciation of the courtesies we have received here this week. It is a great pleasure to have Mr. Cady before you this afternoon and presiding at this session.

THEODORE S. CADY, presiding.

CHAIRMAN CADY: Mr. Chairman and Gentlemen, I assure you that it is a real pleasure to have the National Tax Conference in Kansas City this year. We were a bit handicapped by the noise of construction of the new building directly across the street, but some solution of the problems that were confronting us always seemed to show up at the right time. We are delighted that the president and the members have expressed their appreciation in a very nice way. I count it also a real pleasure to preside at this afternoon's session.

Most of you will recall that the committee on reciprocity in inheritance tax legislation was appointed by the organization in 1927 and, I think, made its final report in 1929, so far as exclusive inheritance tax legislation was concerned. In 1929 the title and the functions of that committee were changed somewhat, retaining almost the same personnel and the same chairman. The work of

the committee is now a bit more widely divergent, and it has assumed the task of having uniform tax legislation, where such uniformity is desirable, enacted in different states. That is a wonderful movement. No one can question that. The Reciprocity in Inheritance Taxation Committee has been one of the most successful committees that the National Tax Association has ever had.

I think perhaps a word concerning the results of uniform inheritance tax legislation is proper. You will recall that the United States Supreme Court recently rendered two very important decisions, following the work of the committee in having uniform legislation adopted in thirty or more states—that is, not altogether uniform but the results were practically the same. One of those cases originated in Missouri, known as the Baldwin case, and another, which antedated the Missouri case, originated in Minnesota, and the court in each of those decisions upheld the position of the Reciprocity Committee. It is with pleasure that I present to the conference Mr. Franklin S. Edmonds of Pennsylvania, Chairman of the Committee of the National Tax Association on Uniformity and Reciprocity in State Taxing Legislation.

#### REPORT OF THE COMMITTEE OF THE NATIONAL TAX ASSOCIATION ON UNIFORMITY AND RECIPROCITY IN STATE TAXING LEGISLATION

F. S. EDMONDS, CHAIRMAN

At the Twenty-second Annual National Tax Conference held at Saranac Inn in September, 1929, the following resolution was unanimously adopted:

“Resolved, That the conference recommend to the National Tax Association the appointment of a committee to investigate the subject of uniformity and reciprocity in state and local taxation, to report to the next conference.”

Pursuant to this resolution, the president of the National Tax Association appointed the undersigned as a committee to consider the subject matter of the resolution, and this committee submits herewith its first and preliminary report, in which two subjects will be considered, viz:

- (a) Reciprocity in State Inheritance Taxation.
- (b) Uniformity in State Taxing Legislation.

##### FIRST: RECIPROCITY IN STATE INHERITANCE TAXATION

The argument for reciprocity has been presented so frequently to the conferences of this Association, that it requires no elaboration at this time. Reference is made to the final report of the original committee on Reciprocity in Inheritance Taxation which was presented at the Saranac Inn conference for a complete history of the

movement. At the time this report was presented, the reciprocal movement included thirty-seven states, the District of Columbia, the Territory of Hawaii, the Province of Ontario and the Territory of the Yukon of the Dominion of Canada. During the past year few of the state legislatures have been in session, and consequently the chief progress has been made in Canada.

Reciprocity with Prince Edward Island came into effect April 10th, 1930. It is to be noted, however, that this reciprocity does not apply to the reciprocal states of Idaho, Illinois, Maine, Mississippi, North Carolina and Wisconsin in the United States, because in these states the provisions of the reciprocity acts do not include the foreign jurisdictions.

This condition would suggest to the reciprocal states the advantages of adopting the uniform reciprocal statute, which was framed by Seth T. Cole, Esq., of the New York State Tax Commission. If all states adopted this statute, it would result in a maximum of reciprocal benefits for their own decedents.

In the Province of Saskatchewan in the Dominion of Canada the reciprocal law was authorized March 27th, 1930, when proclaimed by the Lieutenant Governor; similarly, in the Province of Manitoba. In neither of these provinces have the administrative provisions been completed as yet. The state of New York has enacted an estate tax and has omitted therefrom any taxation of the intangible personal property of non-resident decedents.

These are the chief legislative advances of the year, and it leaves us still with eleven states of the United States not in reciprocity, namely: Arizona, Kansas, Kentucky, Louisiana, Minnesota, Montana, Nebraska, North Dakota, Oklahoma, South Dakota and Utah. But few of the legislatures of these states were in session in 1930; but most of these legislatures will be in session in 1931, and it is hoped that the interest which has attached to this movement in the past may still continue until the legislation of all the states has been made uniform.

But while the legislative progress for the year has not been marked, there have been a number of judicial decisions which have attracted widespread attention. On January 6th, 1930, the Supreme Court of the United States handed down an opinion in *Farmers Loan & Trust Company, Executor under the Will of Henry R. Taylor, Deceased, v. The State of Minnesota*. The decedent, while a resident of New York, died testate owning negotiable bonds and certificates of indebtedness issued by the state of Minnesota and the cities of Minneapolis and St. Paul, worth above \$300,000. The state of Minnesota assessed its transfer tax and its Supreme Court approved this tax. But upon appeal to the Supreme Court of the United States, it was reversed in an interesting opinion by Mr. Justice McReynolds, in which the court overruled the decision in

*Blackstone v. Miller*, which has long been cited as authority for a state tax on the tangibles of a non-resident decedent. In part, Justice McReynolds stated as follows:

"*Blackstone v. Miller*, *supra*, and certain approving opinions, lend support to the doctrine that ordinarily choses in action are subject to taxation both at the debtor's domicile and at the domicile of the creditor; that two states may tax on different and more or less inconsistent principles the same testamentary transfer of such property without conflict with the Fourteenth Amendment. The inevitable tendency of that view is to disturb good relations among the states and produce the kind of discontent expected to subside after establishment of the Union. *The Federalist*, No. VII. The practical effect of it has been bad; perhaps two-thirds of the states have endeavored to avoid the evil by resort to reciprocal exemption laws. It has been stoutly assailed on principle. Having reconsidered the supporting arguments in the light of our more recent opinions, we are compelled to declare it untenable. *Blackstone v. Miller* no longer can be regarded as a correct exposition of existing law; and to prevent misunderstanding it is definitely overruled."

It is to be noted that Justice Holmes, who delivered the opinion of the Supreme Court in *Blackstone v. Miller*, and Justice Brandeis, dissented from this decision. Four months later this was followed by the decision of the same court in *Baldwin et al. v. The State of Missouri*, which held that bank deposits, negotiable bonds, and notes, for the purposes of inheritance taxation, even if physically within the state, had a situs at the domicile of the creditor only, and that where he was a non-resident these assets were not subject to the transfer tax of any other state. This opinion was again rendered by Mr. Justice McReynolds, with dissents from Justice Holmes, Justice Brandeis and Justice Stone. It may be worth while to quote an extract from the vigorous dissenting opinion of Justice Holmes.

"I have not yet adequately expressed the more than anxiety that I feel at the ever-increasing scope given to the Fourteenth Amendment in cutting down what I believe to be the constitutional rights of the states. As the decision now stands I see hardly any limit but the sky to the invalidating of those rights if they happen to strike a majority of this Court as for any reason undesirable. I can not believe that the Amendment was intended to give us *carte blanche* to embody our economic or moral beliefs in its prohibitions. Yet I can think of no narrower reason that seems to me to justify the present and the earlier decisions to which I have referred. Of course the words 'due process of law' if taken in their literal meaning have no application to this case; and while it is too late to deny



that they have been given a much more extended and artificial signification, still we ought to remember the great caution shown by the Constitution in limiting the power of the states, and should be slow to construe the clause in the Fourteenth Amendment as committing to the Court, with no guide but the Court's own discretion, the validity of whatever laws the states may pass. In this case the bonds, notes and bank accounts were within the power and received the protection of the state of Missouri; the notes so far as appears were within the considerations that I offered in the earlier decisions mentioned, so that logically Missouri was justified in demanding a *quid pro quo*; the practice of taxation in such circumstances I think has been ancient and widespread, and the tax was warranted by decisions of this Court. *Liverpool & London & Globe Ins. Co. v. Assessors for the Parish of Orleans*, 221 U. S. 346, 354, 355, 31 S. Ct. 550, 55 L. Ed. 762, L. R. A. 1915C, 903; *Wheeler v. Sohmer*, 233 U. S. 434, 34 S. Ct. 607, 58 L. Ed. 1030. (I suppose that these cases and many others now join *Blackstone v. Miller* on the Index Expurgatorius—but we need an authoritative list.) It seems to me to be exceeding our powers to declare such a tax a denial of due process of law.

"And what are the grounds? Simply so far as I can see that it is disagreeable to a bondowner to be taxed in two places. Very probably it might be good policy to restrict taxation to a single place, and perhaps the technical conception of domicile may be the best determinant. But it seems to me that if that result is to be reached it should be reached through understanding among the states, by uniform legislation or otherwise, not by evoking a constitutional prohibition from the void of 'due process of law' when logic, tradition and authority have united to declare the right of the state to lay the now prohibited tax."

These opinions have been accepted by the various state courts in a number of decisions affecting bonds, and the interesting question arises as to whether they indicate a possible decision of the Supreme Court in the future when a question is presented concerning the stock of a domestic corporation owned by a non-resident decedent. There are many taxing experts who believe that when the question is fairly presented to the Supreme Court, it will lay down the same principle with reference to stocks that it has already laid down with bonds. Until this decision is rendered, however, the taxing authorities of the states which impose taxes upon intangibles of non-resident decedents, have continued to collect these taxes upon stocks. In a recent decision, however, in the state of Kentucky, the Jefferson County Court refused to sustain such a tax on the stock of a

domestic corporation, and it is quite possible that the question will soon be presented flatly to the Supreme Court of the United States.

Until there is a decision, however, which definitely controls all forms of intangibles, your committee is of opinion that the campaign for reciprocity should go on, not only because of the desirable end to be attained, but also because if uniform action can be secured by all of the states on this one problem of taxation, it will be a great incentive to future movements of cooperation and uniformity which may involve even more important questions.

We append to this section of the report the statutory provisions of Prince Edward Island and Saskatchewan.

#### PRINCE EDWARD ISLAND

§ 6018-A. (7)<sup>1</sup> The tax imposed by this Act in respect of personal property (except tangible personal property having an actual situs in Prince Edward Island) shall not be payable (a) if the transferrer at the time of his death was a resident of a Province of Canada, or of a state or territory of the United States, or of any foreign country which at the time of his death did not impose a Transfer Tax, Death Tax or Succession Duty of any character in respect of personal property of residents of Prince Edward Island (except tangible, personal property having an actual situs in such province, state or territory or foreign country); or (b) if the laws of the province, state or territory or country of residence of the transferrer at the time of his death contained a reciprocal exemption provision under which non-residents were exempted from Transfer Taxes, Succession Duties or Death Taxes of every character in respect of personal property (except tangible personal property having an actual situs therein), provided the province, state or territory or country of residence of such non-residents allowed a similar exemption to residents of the province, state, territory or country of residence of such transferrer, and for the purposes of this section.

- (a) The District of Columbia and possessions of the United States shall be considered territories of the United States;
- (b) Any tax imposed under the United States Revenue Act shall not be considered a Transfer Tax, Death Tax or Succession Duty in respect of personal property of residents of Prince Edward Island;
- (c) The terms "foreign country" and "country" shall mean both any foreign country and any political subdivision thereof, and either of them in which the transferrer was domiciled at the time of his death;
- (d) "Intangible personal property" shall mean incorporeal property, including money, deposits in banks, mortgages, debts, receivables, shares of stock, bonds, notes, credits, evidences of any interest in property and evidences of debt;
- (e) All other personal property shall be considered as tangible personal property. (*Laws*, 1930.)

## SASKATCHEWAN

Provision for reciprocity to prevent double taxation:

§ 8049. (1) Subject to the provisions of subsection (2) where, upon property locally situated outside Saskatchewan or any interest therein, there has been paid any estate, succession or legacy duty or tax elsewhere than in Saskatchewan, an allowance for the amount so paid shall be made by this province, and the property upon which such duty or tax has been paid elsewhere shall be subject to payment only of the amount, if any, by which the duty herein provided exceeds the duty or tax so paid elsewhere.

§ 8050. (2) Such allowance shall be made only:

(a) as to any country where an allowance is made for the succession duty paid under this Act on property situate in Saskatchewan, passing on the death of a person domiciled elsewhere than in Saskatchewan; and

§ 8051. (b) if the Lieutenant Governor in Council by order in council has extended the provisions of subsection (1) to apply to such country.

§ 8052. (3) The Lieutenant Governor in Council may revoke any such order, where it appears that the law of the country has been so altered that it would not authorize the making of an order hereunder.

§ 8053. (4) For the conjoint purpose of this section and of section 20 of the Finance Act, 1894, of the United Kingdom, the local situation of any property shall be determined in accordance with the law in force for the time being in Great Britain or Northern Ireland, as the case may require. 1923, c. 13, s. 6, amended.

§ 8054. (5) The tax imposed by this Act in respect of personal property (except tangible personal property having an actual situs in Saskatchewan) shall not be payable:

(a) if the deceased was, at the time of his death, resident in a country which did not impose a transfer tax, death tax or succession duty of any character in respect of personal property of residents of Saskatchewan (except tangible personal property having an actual situs in such country); or

§ 8055. (b) if the laws of that country contained at that time a reciprocal provision under which non-residents were exempted from transfer taxes, succession duties or death taxes of every character in respect of personal property (except tangible personal property having an actual situs therein), on condition that the country of residence of such non-residents allowed a similar exemption to residents of that country. New.

§ 8056. (6) For the purposes of this section:

(a) The word "country" shall include the United Kingdom, a British Dominion, colony or possession, and a foreign country or a political division or possession of a foreign country;

§ 8057. (b) any tax imposed under the United States Revenue Act shall not be considered a transfer tax, death tax or succession duty in respect of personal property of residents of Saskatchewan.

§ 8058. (c) "intangible personal property" shall mean incorporeal property, including money, deposits in banks, mortgages, debts, receivables, shares of stock, bonds, notes, credits, evidences of any interest in property and evidences of debt;

§ 8059. (d) all other personal property shall be considered tangible personal property. New.

§ 8060. (7) Subsections (5) and (6) shall come into force, with respect to any country, only when the Lieutenant Governor has by proclamation named a day for that purpose. New. (*Laws*, 1930.)

and also a list of the principal corporations of the non-reciprocal states.

#### PRINCIPAL CORPORATIONS OF NON-RECIPROCAL STATES

(Those italicized listed in New York and Boston)

|                                                | <i>Incorporated in</i> |
|------------------------------------------------|------------------------|
| Alice Gold, Silver Mining Co.                  | Utah                   |
| Amalgamated Sugar Co.                          | Utah                   |
| <i>Anaconda Copper Mining Co.</i>              | Montana                |
| Anderson Mfg. Co.                              | Kentucky               |
| Ardsley Butte Mines, Inc.                      | South Dakota           |
| Arizona Edison Co.                             | Arizona                |
| <i>Atchison, Topeka &amp; Santa Fe Ry. Co.</i> | Kansas                 |
| Aurora Consolidated Mines Corp.                | Arizona                |
| Avery (B. F.) and Sons, Inc.                   | Kentucky               |
| Axton-Fisher Tobacco Co.                       | Kentucky               |
| Belknap Hardware & Mfg. Co.                    | Kentucky               |
| Boston Montana Mines Co.                       | Montana                |
| Butter & Isele Cons. Mng.                      | Utah                   |
| <i>Butte &amp; Superior Mining Co.</i>         | Arizona                |
| Butte-Ballaklava Copper Co.                    | Arizona                |
| Butte Copper Cons. Mines                       | South Dakota           |
| <i>Callahan Zinc-Lead Co.</i>                  | Arizona                |
| Capital Gas & Elec. Co.                        | Kansas                 |
| Carnegie Lead & Zinc Co.                       | Arizona                |
| Carnegie Metals Co.                            | Arizona                |
| Central Arizona Light & Power Co.              | Arizona                |
| Cessna Aircraft Co.                            | Kansas                 |
| Chase Mines, Inc.                              | Arizona                |
| Chief Consol. Mining Co.                       | Arizona                |
| Claude Neon Elec. Prod., Inc.                  | Arizona                |
| Coleman Lamp & Stove Co.                       | Kansas                 |
| Consolidated Utilities Co.                     | North Dakota           |
| Consolidated Wagon & Machine Co.               | Utah                   |
| Covington & Cincinnati Bridge Co.              | Ohio, Kentucky         |

|                                                     |                |
|-----------------------------------------------------|----------------|
| Crystalite Products Corp.                           | Arizona        |
| Cumberland Pipe Line Co., Inc.                      | Kentucky       |
| Dixie Ice Cream Co.                                 | Kentucky       |
| Dixie Power Co.                                     | Utah           |
| <i>East Butte Copper Mining Co.</i>                 | Arizona        |
| Empire District Elec. Co.                           | Kansas         |
| First National Bank of Louisville                   | Kentucky       |
| Gila Development Co.                                | Arizona        |
| <i>Great Northern Iron Ore Properties</i>           | Minnesota      |
| <i>Great Northern Railway Co.</i>                   | Minnesota      |
| <i>Greene Cananea Copper Co.</i>                    | Minnesota      |
| <i>Helvetia Copper Co.</i>                          | Arizona        |
| Inter Mountain Elec. Co.                            | Utah           |
| Jumbo Extension Mining Co.                          | Arizona        |
| Kansas City Gas Co.                                 | Kansas         |
| Kansas Electric Power                               | Kansas         |
| Kansas Power Co.                                    | Kansas         |
| Kentucky Title Co.                                  | Kentucky       |
| Kentucky Utilities Co.                              | Kentucky       |
| Lexington Utilities Co.                             | Kentucky       |
| <i>Louisville &amp; Nashville R. R. Co.</i>         | Kentucky       |
| <i>Louisville Gas &amp; Elec. Co. of Kentucky</i>   | Kentucky       |
| Louisville Railway Co.                              | Kentucky       |
| McLaughlin, Gormley, King Co.                       | Minnesota      |
| Merchants Ice & Cold Storage Co.                    | Kentucky       |
| Minneapolis Knitting Works                          | Minnesota      |
| Minneapolis Real Estate Associates                  | Minnesota      |
| <i>Minneapolis, St. Paul &amp; S. S. M. Ry. Co.</i> | { North Dakota |
|                                                     | { Minnesota    |
|                                                     | { Wisconsin    |
| Minneapolis Steel & Machinery Co.                   | Michigan       |
| Minnesota Power & Light Co.                         | Minnesota      |
| <i>Munsingwear Corp.</i> (not listed)               | Minnesota      |
| New Dominion Copper Co.                             | Minnesota      |
| New Mexico & Arizona Land Co.                       | Arizona        |
| <i>North Butte Mining Co.</i>                       | Arizona        |
| <i>Prairie Oil &amp; Gas Co.</i>                    | Minnesota      |
| <i>Prairie Pipe Line Co.</i>                        | Kansas         |
| Public Utilities Consolidated Corp.                 | Kansas         |
| Robert St. Associates of St. Paul                   | Arizona        |
| Rogers Lumber Co.                                   | Minnesota      |
| St. Paul Business Real Est. Asso. Tr.               | Minnesota      |
| St. Paul Central Associates Trust                   | Minnesota      |
| St. Paul Fire & Marine Ins. Co.                     | Minnesota      |
| Salt Lake Stock & Mining Exchange                   | Utah           |
| Second Duluth Real Estate Asso. Tr.                 | Minnesota      |
| Second St. Amusement Co.                            | Kentucky       |
| Shattuck Arizona Copper Co.                         | Minnesota      |
| Silver King Cons. Mining Co.                        | Utah           |

|                                         |          |
|-----------------------------------------|----------|
| <i>Southern Pacific Co.</i>             | Kentucky |
| Southwestern Miami Development Co.      | Arizona  |
| Standard Lily Extension Mines Co.       | Utah     |
| Standard Oil Co. of Kansas              | Kansas   |
| Standard Oil Co.                        | Kentucky |
| <i>Superior &amp; Boston Copper Co.</i> | Arizona  |
| Swallow Airplane Co.                    | Kansas   |
| Tintic Giant Mines Co.                  | Utah     |
| Tonopah Extension Mining Co.            | Arizona  |
| <i>Union Pacific Railroad Co.</i>       | Utah     |
| United Eastern Mining Co.               | Arizona  |
| Utah-Idaho Sugar Co.                    | Utah     |
| Walker-Mining Co.                       | Arizona  |
| West End Cons. Mining Co.               | Arizona  |
| White Metal Mining Co.                  | Arizona  |
| Wyandotte County Gas Co.                | Kansas   |
| Wyman Mining Co.                        | Arizona  |

*Number in Each State*

|                    |    |
|--------------------|----|
| Arizona .....      | 26 |
| Kansas .....       | 13 |
| Kentucky .....     | 17 |
| Minnesota .....    | 18 |
| Montana .....      | 2  |
| North Dakota ..... | 2  |
| South Dakota ..... | 3  |
| Utah .....         | 12 |
| <hr/>              |    |
| Total .....        | 93 |

—Ganse Estate Protection Service—Boston, Mass.

For reasons set forth in the last report, we have prepared a separate list of the corporations of Louisiana and Nebraska.

## PRINCIPAL CORPORATIONS OF LOUISIANA AND NEBRASKA

(Those italicized listed in New York)

|                                         |                        |
|-----------------------------------------|------------------------|
|                                         | <i>Incorporated in</i> |
| Ayer Timber Company                     | Louisiana              |
| Baton Rouge Electric Company            | Louisiana              |
| Cloverland Dairy Products Co., Inc.     | Louisiana              |
| Coca Cola Bottling Co. of Chicago, Inc. | Louisiana              |
| Commercial Credit Co., Inc.             | Louisiana              |
| Hortman-Salem Co., Inc.                 | Louisiana              |
| Insurance Securities Co., Inc.          | Louisiana              |
| Lafayette Fire Ins. Co.                 | Louisiana              |
| Lincoln Tel. & Tel. Co.                 | Nebraska               |
| Maison Blanche Co.                      | Louisiana              |
| Mente & Co., Inc.                       | Louisiana              |
| National Realty Co.                     | Louisiana              |

|                                                    |           |
|----------------------------------------------------|-----------|
| National Sash & Door Co.                           | Louisiana |
| New Orleans Public Service, Inc.                   | Louisiana |
| <i>New Orleans, Texas &amp; Mexico Ry. Co.</i>     | Louisiana |
| Omaha & Council Bluffs St. Ry Co.                  | Nebraska  |
| Saenger Theatres, Inc.                             | Louisiana |
| Standard Oil Co. of Nebraska                       | Nebraska  |
| <i>Vicksburg, Shreveport &amp; Pacific Ry. Co.</i> | Louisiana |
| <i>Wesson Oil &amp; Snowdrift Co., Inc.</i>        | Louisiana |

## SECOND: UNIFORMITY IN STATE TAXING LEGISLATION

During the past thirty years, and particularly since the World War, business has been reorganized into larger units, and the special characteristic of the period has been the organization of vast businesses which are really national corporations serving every part of the country. As a business extends its operations, it comes necessarily under a variety of taxing jurisdictions, and the complexity of the tax problem to the taxpayer becomes evident. Taxes are imposed upon property, income, privilege and upon any other tax basis that the ingenuity of legislatures can devise. They are based upon a wide variety of reports, and they have caused to business a heavy super-tax which is not paid to the state, but is expended in finding out what the tax liability to the state may be.

Industry is being educated to expect heavy taxation, and there is a commendable spirit among some of the large businesses in favor of recognizing the duty of industry to the state, in the payment of a just share of its income to government. But business protests against the variety of methods imposed by the different taxing jurisdictions, the wide differences in the information which is required by the tax assessor and the cost and complications to business of attempting to follow an infinite variety of assessment and collection dates which frequently lead to the imposition of penalties for remissness in meeting a charge which the business was ready and willing to pay if it had had adequate information concerning its nature.

As a preliminary basis for its study, the committee secured information from four large corporations which are engaged in inter-state business, the results of which information may be summarized as follows:

"A" corporation is engaged in business in thirty-five states. It pays a total of 198 taxes, or an average of six per state, in thirty-three different forms, running from one tax to thirteen taxes per state.

"B" corporation is engaged in business in twenty-seven states and is obliged to prepare and file sixty different reports, each with peculiar characteristics, the number being required by the various states running from one report to five per year.

"C" corporation is engaged in business in thirty-six jurisdictions and finds itself subject to 108 taxes of eighteen varieties, the least

popular being imposed by one state, and the most popular by twenty-four states.

"D" corporation, which is a manufacturing corporation, has twelve plants in the United States and Canada, and finds that its 1928 taxes varied from 0.47 to 2.84 at each plant in the ratio of the amount of taxes to the book value of taxable property and from 0.45 to 2.13 in the ratio of total taxes to the output of each plant.

The above computations relate simply to taxes and charges imposed by the state and property taxes imposed by the local government, and does not include a wide variety of local license fees and other charges which may be imposed in some localities.

This situation presents a challenge to the National Tax Association. Upon the one side we find a group of taxpayers who claim to be willing to pay equitable taxes and whose prosperity is fundamental in American life. They are asking not necessarily for relief as to the amount of taxation, so much as relief in the variety of taxation. They admit the necessities of the state, but they challenge the policy of the state in plaguing them with a series of inflictions which are comparable in number and bitterness to the plagues sent upon Egypt.

Your committee feels that it is its function to examine this situation, and if possible, to suggest an appropriate line for relief. In the short time that the committee has been at work, it will not be possible for it to formulate definite recommendations, but the correspondence of the committee has led to many interesting statements from representatives of interstate business from which the following may be selected as typical.

"In one state, for example, real estate and personal property is by statutory provisions required to be assessed at actual value, but in practice a percentage of actual value is arbitrarily used by the assessing authorities, varying all the way from 10% to 70%. We may find upon investigation that a rendition for personal property taxes at one location would be fair on a basis of 70%; whereas if we used the same percentage of actual value in making a return in another city in the same, or in an adjoining county, we would find ourselves paying all the way from 60% to 100% more taxes than other business concerns, and more particularly our competitors. We are thus compelled to spend more time and effort in finding out the 'degree' of law enforcement than we spend in handling other phases of our tax work. Multiplying the number of cities in each county by the number of counties, and multiplying the result by the number of states; and considering that in each one of these taxing units there is a wide difference in the practice as respects different classes of property; and that there are any number of different kinds of taxes imposed as 'property taxes,' one gets



some idea of the complex situation we are confronted with in computing our tax liability for state and local purposes; not to mention the difficulties encountered in actually paying the tax."

Another corporation reports as follows:

"Recently an *attempt* was made to impose a local tax upon one of my companies in respect to accounts receivable due from residents of local jurisdiction, notwithstanding the fact that the corporation creditor had no office or place of business in the local jurisdiction nor was it doing business within the state of which the local jurisdiction was a part. The local assessors claimed to be, and in fact were, supported by the state tax commission. After some effort, however, I succeeded in convincing the representative of the state tax commission and the local assessors that such a tax was improper and unlawful.

"Again, some states attempt to include in business done within a state not only business done with residents of that state, whether actually consummated and completed in the state or not, but also business done with residents of other states, if the orders were remitted to an office in the state, although finally accepted in a third state."

A third corporation directs attention to inequities in the income tax situation as follows:

"For example, such a state as Arkansas, which taxes the entire net income of a corporation organized under its laws, and only the Arkansas income of a foreign corporation, penalizes such of its own corporations as are doing an interstate business.

"There likewise is a wide variation among the states as to other taxes imposed. Some states levy a great many of the so-called nuisance taxes; others, only a few. For example, in Connecticut, a foreign corporation pays a license fee of \$50 for the privilege of doing business in that state. It pays an annual tax of 2% of its net Connecticut income. In Georgia it pays a fee of \$1 for the license privilege. In addition, however, it pays an income tax on all Georgia income at one-third the federal rate, a sales tax on its gross receipts, and in certain instances, an occupational tax. In Florida it pays an entrance fee based upon the amount of capital stock and no annual fee, other than the same occupational license fees as are paid by domestic corporations."

These illustrations may be selected as typical. They are not suggested as covering the entire situation, but they are brought to the attention of the conference in the hope that it may be possible to secure from representatives of business a statement of their legitimate grievances under the present situation.

With this statement of existing difficulties under present conditions, the committee desires to report in a tentative and preliminary manner upon three methods whereby these difficulties could be minimized.

- (A) Is uniformity possible with reference to assessment dates, filing dates, return and payment?
- (B) Is a uniform business tax in lieu of all other forms of state taxation possible and desirable?
- (C) The work of the International Chamber of Commerce in the elimination of double taxation.

*A. Is uniformity possible with reference to assessment dates, filing dates, returns and payment?*

Most states have adopted one or more of three major annually recurring tax levies as follows:

- (1) Property taxes,
- (2) Personal income taxes,
- (3) Business or excise taxes measured by income or otherwise.

The second class of taxes relates chiefly to residents of the states imposing the tax, and hence the need for uniformity as among states is of minor importance.

As applied to property taxes the desirability for uniformity among the states arises because non-resident individuals and corporations may be obliged to pay taxes in the taxing state,—indeed many large corporations have property in nearly every state. On the other hand, the methods of taxing property and of administration of property tax laws are so diverse among the various states that to bring about uniformity in this field of taxation is a formidable undertaking which it may seem expedient to defer pending the accomplishment of the considerably less difficult task of effecting a substantial degree of uniformity in business taxes.

We, therefore, address ourselves to the problem of uniformity in method in the matter of business taxes. Specific recommendations for uniformity in filing dates, forms for returns etcetera cannot ignore the subject matter to be contained in the forms to be filed. It should be noted that there are at least two aspects to be considered in the application of the principle of uniformity to filing dates. Uniformity simplifies the tax calendar for the attorney or auditor who is charged with the responsibility of filing returns. But if he is obliged to file in many states and the methods of measuring the tax and hence data required in the different states is diverse, uniformity in filing dates instead of providing relief might impose a congestion of work that is anything but desirable. In other words, under such conditions the corporation or its representative may find tax work facilitated if it can be spread over the year. If, however,

the measure of the tax be substantially uniform, the matter of filling out substantially uniform tax returns is largely clerical once the data for a single return has been compiled. In view of the commitment of previous committees to an income measure for business taxes it is assumed for purposes of these recommendations that such a measure may be presumed to be the accepted model method. This being the case, the subject matter of the return to be filed will be income. The natural period for admeasuring income for the annual levy is the calendar year last preceding the year of the levy or under certain conditions a fiscal year. In states, therefore, that adopt a uniform measure for the tax on net income it would seem that a uniform filing date could be agreed upon to advantage. In view of the fact that the compilation of the federal return in the majority of cases takes place during the period from the beginning of the year to March 15th it would seem that some added time should be allowed for the state returns. But since much of the data for the state return will be available as a result of the preparation of the federal return, and further since the states must be given a reasonable period for assessment and billing, the first of April is suggested as a uniform filing date.

Uniformity in the form of return, of course, cannot be had unless the subject matter to be reported is of the same nature. In states adopting a net income measure there would seem to be no reason why a substantially uniform return could not be devised. Of course, the method of allocation of net income should be uniform as well as the method of determination of what net income is.

Uniformity as to due dates is also dependent to an extent upon the method of tax adopted. The net income measure adapts itself reasonably well to the advanced partial payment at the time of filing since the tax is easily figured. It is suggested that one-half the tax be payable at the time of filing and the balance upon October first after assessment and billing. This spreads the tax burden for the corporation and also affords a reasonable opportunity for assessment of the tax between the filing date and the date for final payment.

The advantages of having uniformity as to the size of the tax return are many not only from the filing point of view but as well from the filling-out point of view. This would also apply to the bill. The gathering of statistical data will be facilitated by the adoption of such uniformity and should result in more equitable spread of tax burdens and tax requirements.

*B. Is a uniform business tax, in lieu of all other forms of state taxation, possible and desirable?*

This is the vital question before the committee, and upon it the committee asks for light from this conference.

If such a tax be desirable, the previous reports of committees to the National Tax Association would seem to indicate that it should be based upon income; that a one hundred per cent taxation of net income by all states as an aggregate,—neither more nor less,—should be secured; that the tax should be based on the identical information required in the federal returns, but that it should be applied to non-corporate business, as well as to corporate business; and that an allocation fraction that is readily understood should be applied as between the states.

The members of the conference are asked to write to the committee their reaction to these suggestions, so that the committee may be able to act intelligently, and with complete knowledge.

*C. The work of the International Chamber of Commerce in the elimination of double taxation.*

We append to our report a statement of the International Chamber of Commerce on double taxation, to which is added comments on the application of the principles suggested herein to conditions in the United States, prepared by the Finance Section of the Chamber of Commerce of the United States.

PROPOSED PRINCIPLES FOR THE ELIMINATION OR REDUCTION OF  
DOUBLE TAXATION RESULTING FROM OVERLAPPING  
TAXING JURISDICTIONS

Proposed by the International Chamber of Commerce with  
comments by the Taxation Division, Finance Department  
United States Chamber of Commerce

At its conference at Amsterdam, July, 1929, the International Chamber of Commerce adopted a set of resolutions containing a series of suggested principles, the adoption of which would aid in eliminating or reducing international double taxation. It has been proposed that these principles might be suggestive of methods which could be applied to the American interstate situation.

There is appended a statement of these principles. Following the principles are comments discussing their relation to the American interstate situation.

I. GENERAL LIMITS OF FISCAL SOVEREIGNTY

Subject to the provisions under No. II below:

A. When income is derived from a source situated abroad, a state should limit its tax jurisdiction to the beneficiary of the income (individual or company) domiciled in its territory.

Comment. This principle is generally applied through the United States. A state has no jurisdiction, generally speaking, outside of its own territory.

B. When the beneficiary (individual or company) of income is domiciled abroad, a state should limit its tax jurisdiction to income from sources within its territory.

Comment. This principle is generally in force throughout the United States, though there are some few exceptions.

The term "fiscal domicile" means:

- (a) in the case of an individual, his normal residence, residence being understood to mean a permanent home;
- (b) in the case of a corporation, the real center of management of the undertaking or, if this cannot be determined, the legal registered office;
- (c) when an individual has a fiscal domicile in more than one state, the tax is imposed by each of such states according to the time passed in the country during the fiscal year or according to a division to be reached by common agreement of the administrations concerned.

## II. INCOME

### A. *Income Taxable in the State of Domicile*

The following kinds of income should be taxed exclusively by the state of domicile of the taxpayer. If the state of origin of such income collects a tax thereon, it should refund such tax upon production of proper evidence.

- (a) *Interest*: Income from public funds, bonds, including mortgage bonds, loans, deposits and current accounts.

Comment. The first part of the above-mentioned principle is generally followed throughout the United States, with the possible exception of mortgage bonds.

- (b) *Dividends*: Income from stocks and shares, or similar securities.

Comment. Generally, this principle is followed in the United States.

- (c) *Private Pensions*: Pensions paid by persons or organizations, other than governmental.

Comment. This principle seems to be applied generally.

- (d) *Annuities and Miscellaneous Income*. Annuities and income from arbitrage transactions, from discounting of acceptances, and from all other sources not specifically mentioned under Nos. II A and B.

### B. *Income Taxable at the Source*

The following kinds of income should be taxed in priority by the state of origin:

If the taxpayer is domiciled in a state other than the state of origin, the state of domicile should allow such relief as will be sufficient to avoid double taxation. This relief might be given:

by the state of domicile exempting the said income, or by deducting from its own tax an amount equal to the lesser of:

the tax actually paid in the other state (source); or the tax payable on such income to the state of domicile at its own rates.

- (a) *Income from Immovable Property.* The income from immovable property, corresponding to the actual or presumed rental value of such property, as well as any other income from such property not covered by paragraph II B (b) below. This rule is applicable to income from mortgages or other similar claims.

Comment. This principle does not receive wide application in the United States at the present time; in fact, some confusion exists regarding it. As an illustration, the law of one important state provides that the entire net income of residents be taxed in that state and that the income of non-residents derived from all property owned or any business or occupation carried on there be taxed. Thus owners of property in that state, who reside in other states, which levy income taxes on the total income of their residents, are liable also in their home states for a tax on the income derived from their property in the first state. Practical difficulties, however, may stand in the way of effective administration of such taxes against non-residents and it may well be, therefore, that in practice this principle is generally followed.

For the purpose of the present provision, the state of origin is the state wherein such immovable property is situated.

- (b) *Industrial, Commercial or Agricultural Income.* Income, not referred to in paragraph II B (d) below, from any industrial, commercial or agricultural undertaking and from any other trades or professions.

For the purpose of the present provision, the state of origin is the state where a permanent establishment of the above-mentioned undertakings or professions is situated. If the latter possess permanent establishments in two or more states, each state should tax the part of the income attributable to the permanent establishments in its territory.

Comment. This would seem to be followed in the United States. The difficulty centers around a suitable allocation formula.

However, income from maritime and air navigation is taxable only in the state in which the real center of management of the enterprise is situated.

Real centers of management, branches, mining and oil fields, factories, workshops, agencies, warehouses, offices and depots are regarded as permanent establishments. The fact that an undertaking has business dealings with a foreign country through (a) a *bona fide* agent of independent status (broker, commission agent, etc.) or through (b) a local company the stock of which it owns in whole or in part, should not be held to mean that the undertaking in question has a permanent establishment in that country.

The state in which the real center of management is situated should alone have the right to require a declaration of total income from all sources; on the contrary, the states in which other kinds of permanent establishments of foreign undertakings are located should be satisfied with the declaration and accounts referring directly and exclusively to the income of such permanent establishments.

General comment on B (b). There is conflict regarding this provision in the United States. Corporations are becoming increasingly interstate in their business, and both the methods and conditions under which this business is carried on vary widely. As a result, numerous problems arise, scarcely two alike in detail, and this makes general classification or uniform rules difficult, if not impossible. As an illustration, if a corporation manufactures its product in state A and sells it in A and two other states, Y and Z, state A may claim the right to tax the entire net income of the corporation because it manufactures its product exclusively within A's territorial limits. Y and Z may likewise tax the income of the corporation attributable to its distribution centers in their respective jurisdictions, and double taxation results. The case of a corporation located in A selling entirely through branches in Y and Z would present another illustration and a different type of problem. The difficulty in this instance would be primarily one of distinguishing between profits derived from manufacturing and those derived from selling. If the corporation were to operate two subsidiary corporations, one in Y and one in Z, selling its products only to them, and they, in turn, reselling it in their respective territories, the situation would be still different and somewhat simpler. Illustrations could be multiplied almost indefinitely. In all instances there is evident the need of developing some equitable and recognized standard or standards of allocation of income among the different states which have the right to tax income resulting from the conduct of interstate business.

(c) *Directors' Fees.* Percentage fees (tantiemes) of directors and auditors of joint stock companies.

For the purpose of the present provision, the state of origin is the state where the real center of management of the undertaking paying such fees is situated.

Comment. This principle, although apparently correct, would seem to be of but little importance in the United States in view of the nominal size of the usual director's fee.

(d) *Salaries and Wages.* Salaries, wages or other remuneration of any kind.

For the purpose of the present provision, the state of origin is the state where the taxpayers carry on their employment.

Comment. There may be growing conflict in this country regarding the taxation of the types of income mentioned in this principle. With the growth of the large cities and improved transportation, there is increasing tendency for people in certain metropolitan areas to live in one state and work in another. A more general use of income taxes will increase the possibility of difficulties in these instances. Certain states now tax any income earned within their jurisdictions and others may follow this policy in the future. If this practice becomes general, individuals, who work in states other than that of their residence, will be increasingly subject to double taxation. The New York income tax law provides reciprocity under such conditions. A non-resident who derives an income from New York, upon which he is taxed in his own state, is to be credited with the proportion of the taxes paid to his home state which is attributable to income earned in New York, upon condition that the state of domicile of the taxpayer grants a reciprocal credit in income taxes to residents of New York state liable for taxes under its jurisdiction.

Salaries of officials and public employees serving abroad should, however, be taxed in the state which pays them.

(e) *Public Pensions.* For the purpose of the present provision, the state of origin is the state owing such income.

NOTE: Another section of the International Chamber of Commerce resolution dealing with succession duties is not included in the above.

We ask consideration for this report and also comments thereon.

Does this program appeal to the members of the conference? We have been charged with a heavy responsibility, and it is our desire to sketch briefly some of the aspects of the problem, to secure thereon the judgment of the conference, and with the new light thus obtained, to proceed with this work, in the hope that by the next conference, we may be able to report at least the outlines of a plan.

Respectfully submitted,

FRANKLIN S. EDMONDS, *Chairman*  
JOHN S. EDWARDS  
MORRIS FREY  
CHARLES W. GERSTENBERG  
MARK GRAVES  
HENRY F. LONG  
HARLEY L. LUTZ  
BLAINE F. MOORE  
RAY L. RILEY  
JAMES L. SAYLER  
CLARENCE SMITH  
H. P. SNEED  
J. T. WHITE.



CHAIRMAN CADY: I will admit frankly, gentlemen, my watch stopped shortly prior to the finishing of the committee report submitted by Senator Edmonds, but knowing that it was a matter of great importance, and being so eloquently presented, I disregarded the twenty-minute time limit for speakers, and am sure there will be no criticism of that action on my part.

I understand that there is no formal discussion to take place following the presentation of this paper, but I am sure that Senator Edmonds will be glad to answer any questions that may occur to you. We have some time yet that can be devoted to this half of the afternoon's program.

Is there any question from anyone?

(No response)

CHAIRMAN CADY: Mr. Edmonds, may I make a comment or query? As to the corporations that were mentioned in your classification of A, B, C and D, did all of those corporations complaining of the lack of uniformity suggest that the laws of all the states involved need to be amended very radically?

FRANKLIN S. EDMONDS: They complained of the cost to themselves in determining what their tax liability actually was. They did not complain in any case of what you might call the amount of taxes that were paid to the state, but they complained of the super-tax, as we called it in the report, to themselves to find out what the actual taxes were. They stated it caused considerable accounting difficulties. If they were trying to make a budget, for instance, for next year and have all these varieties of taxes to consider on their expenses, they find themselves in a situation of considerable difficulty. It was not from the point of view of reducing the actual tax burden of the corporation but of reducing the burden of the corporation in finding out what the tax was. It was from that point of view that the committee proceeded. Commissioner Edwards of Ohio tells me that Ohio does have reciprocity with Toronto. Therefore they should have reciprocity with those other Canadian provinces. I am sure I can correct that in the report if it turns out to be an error.

CHARLES J. TOBIN (New York): I should like to ask if the committee drew any conclusion as to what might be the proper basis or best basis for business taxes. There has been a lot of talk about income and net income, and that kind of tie-in with the Federal Government. As to what would possibly be the best plan, I don't know whether you made any conclusion on that or not.

MR. EDMONDS: The committee has no conclusion and no commitment on the subject. We thought we ought to start off with the commitment at the Toronto conference. When that report was con-

sidered, there was a resolution adopted on the floor which commended the idea of a business tax based on income. We are examining that first. Whether we will agree with that, I don't know. I don't think there has been any positive declaration of the National Tax Association as to what the proper form of a tax on business will be. However, there will be in our next report if we can advance far enough.

J. M. STEERE (Pennsylvania): As a representative of one of the corporations which has to pay a great many inheritance taxes, I should like to express my appreciation of the work of the committee on reciprocity. It seems to me that if the National Tax Association had done nothing else, it would have justified its existence simply through the work which this committee has done. I remember very well in the days when multiple taxation had reached such a height that in paying the taxes on one estate, handled by our company, we had twenty-eight different tax proceedings in twenty-eight different states, besides the Federal Government.

I believe in the principle of inheritance taxation. I think it is a proper and just method of collecting a certain amount of revenue, but of course we all admit that multiple taxation is impossible. I hope very much that the work of this committee will go on, until the other states, including Kansas, join the fold of reciprocity states.

CHAIRMAN CADY: That is extremely interesting comment. Could you, Mr. Edwards, briefly state the provisions of your Ohio law?

JOHN S. EDWARDS (Ohio): I think perhaps it would not be of any particular interest. I understand from our attorney that our law goes for the provision whereby we may have the reciprocal relation with outside provinces, that is, provinces of Canada. We have that relation with Toronto. I don't handle the inheritance tax work of our commission, but it would merely provide for the possibilities of reciprocity.

CHARLES J. TOBIN: Possibly Senator Edmonds can tell us why some of these states have not come in.

MR. EDMONDS: I think in almost every case where they have not come in there is really an Atcheson, Topeka and Santa Fe in the offing, that is to say, they have one or two large corporations in which the stock is extensively held by non-residents, and because the stock is so held there is a constant income that comes into the state from that source. I know that in some of these states not yet practicing reciprocity, they have made a careful study of the situation to see if they could come in. Mr. Youngquist, who is now in Washington, and who formerly represented the Minnesota Tax Commission, computed, as I remember, what Minnesota received

from large estates, and when the time came to balance their budget they felt they could not give up that income.

While it is true that there will be this certain loss of income, it is a small income at the best, but the effect of it is that you are discouraging investment in your own states. Most of these states that still have the provision taxing the intangibles of non-resident decedents are states in which capital is needed for development purposes, and there has been so much outcry over this multiplication of taxation that capital is watching very closely where it goes. I said we appended a list of corporations in the non-reciprocal states, that was sent out to clients with a warning not to buy those stocks, that if they were bought there would be difficulty in settling those estates.

EDWARD R. LEWIS (Illinois): You stated that it was hoped, by some of the people watching inheritance tax history, that the Supreme Court would rule the same way in regard to both stocks and bonds. My recollection is there is a Supreme Court decision directly in the way of that, much more recent than Blackstone versus Miller. I think I recall a decision about 1910 or 1911—maybe later—upholding the New Jersey law at that time. Am I correct?

MR. EDMONDS: I think you are right, sir. I think it is one of those cases in which Mr. Edwards or Mr. Bugbee was the collector at the time, and his name is in the title of the case. I think that is true. But the argument as expressed by those who believe that the Supreme Court will strike down double taxation, in regard to taxes, is that now the Supreme Court has taken cognizance of the subject and has decided, as regards bonds, that because duplicate taxation works an injustice, there is a violation of the Fourteenth Amendment. If that point of view appeals to the Supreme Court they could just as easily say so with reference to stock.

Double taxation, so to speak, is an abhorrence of the American people. I think the point of view Justice Holmes has chosen is absolutely correct. Here is a terrible evil, it ought to be gotten rid of by conference between the states and by united action among the states, because it is a state problem, to be dealt with in that way. That is one of the reasons why I feel strongly that the campaign for reciprocity should go on.

MR. LEWIS: On the income tax part of the report, Senator Edmonds, has the committee re-examined in the last two or three years a formulated basis for an income tax, in its study of uniform taxation, or has it rested on the old report of four or five years ago?

MR. EDMONDS: The committee was only appointed in January. It has had four meetings in the course of the year, and we were feeling around trying to assemble data, such as the data in the

report. We have not attempted as yet to consider how far to go, but we did consider, I mean as a commitment of the National Tax Association, that it was our duty first to examine the income tax. The preference seems to be for that according to the commitments of this Association.

Next year I hope we will be a stage or two further.

SETH T. COLE (New York): I do not wish to take issue with our good friend, Senator Edmonds, on the question of what the law of the land should be as to the duplicate or multiple taxation of intangibles, but I do think that there is another side to the picture. I am not aware of any decision by the United States Supreme Court which specifically passes upon the question of the right of the state of domicile of a corporation to tax all of its corporate stock even though that stock be owned by a non-resident, meaning a death tax or a transfer tax upon the death of the owner. I think the nearest any decision comes to that is in the case of Frick versus Pennsylvania. There the question was not squarely before the court, but the court did indicate that the state of domicile of the corporation had the power to exact a tax.

As I see this entire problem of multiple taxation, death taxation, of intangibles, it has all come about because of an erroneous application of legal principles. The death tax has been applied on the basis of principles which relate to other taxes, largely on the basis of principles which were related to the general property tax. And, I believe that there is nothing in common between a general property tax and a transfer tax upon the death of the owner. The state of domicile of a corporation has the right, and should have the right, to exact an organization tax, and exact an annual franchise tax, and perhaps a tax upon the transfer of the stock of the corporation *inter vivos*, but I do not believe that it should have the right to exact a tax upon the transfer of a stock upon the death of the owner when it contributes nothing towards that transfer, and the transfer takes place wholly outside of its borders. Sight has been lost of the fact that the death tax is a tax upon the transfer of the property; and necessarily it would seem to me that tax can be and should be exacted only at the place where the transfer of the property takes place and becomes effective. And, in the case of intangible personal property it is now settled that the situs of such property is at the domicile of the owner, and it is there, and there only, that the transfer takes place, and there I believe only is it possible to tax it within the "due process" clause of the Constitution of the United States.

BLAINE F. MOORE (District of Columbia): Senator Edmonds mentioned the report of the International Chamber of Commerce on the question of double taxation. As a matter of information, if

any member of the conference here is interested in that report and will ask us to do so, we will be glad to send a printed copy of that International Chamber report. On that report there has been put a great deal of labor. They started in 1921, at London. As a result of the conference at London, there was an international committee set up, and later twenty-six national committees were formed. These national committees made a survey in their own respective countries and surveyed the possibilities, and made suggestions; and through seven, eight or nine years, out of those negotiations, came the present principle which the International Chamber has adopted. Those principles were considered at three different international conferences. They did not seem to attract very much attention in this country. I am not sure just how far the principles enunciated there are applicable to interstate relations, but I think anyone interested in this question of international taxation will find that that program drawn up by the International Chamber of Commerce is distinctly worth looking at. If you will write a letter to the United States Chamber of Commerce at Washington, D. C., we will be glad to send you a copy of the report, and if you wish it we will send you a copy of our own memorandum on the subject, of which Senator Edmonds read some part. Our comments on that are our first comments. I am not at all sure they are our last ones. I am not altogether sure how valuable they are. That question of international reciprocity and amity in taxation has attracted a good deal more attention abroad than it has in this country. Europe has made very considerable progress. I might state that when this work was started the idea was to draft a general treaty, to be signed by all countries, and thus secure uniformity so far as the ground covered in those treaties. It later developed that this was impractical, for the present, and the immediate result has been that bilateral treaties have been drawn up in Europe. At this time at least nineteen of those treaties have been signed among the countries of Europe. So, to that extent the problem has been solved in European countries. The United States has not signed any of those treaties, and apparently is not in much of a mood to sign any of them. In this country we took another tack. Last February, in the United States Treasury Department, we called a conference upon the subject, and to that conference we invited all of the big exporters of the United States, as many as we could get, and we had over one hundred different corporations, exporters and business concerns represented, interested in this question. We had a conference, and following that the Hawley Bill was introduced. The Hawley Bill attempts to provide for reciprocity, exempting from federal income tax citizens of foreign countries, under certain conditions, provided our own citizens get the same exemptions in the countries of which those people are nationals. A hearing was

held on that bill last March in Washington before the Ways and Means Committee of the House. Secretary Mellon appeared in favor of it, and there seems to be some prospect of that thing going through the next session of Congress. Whether it will or not I don't know, but conditions look favorable at the present time. If you are interested in the question of double taxation take a look at the Hawley Bill. Notify your senator to that effect and he will help. If you are interested in the problem of international double taxation and the proposal to remedy some of the conditions, and also the way those things worked out in the international Chamber of Commerce, I will be glad to send you all available data.

MR. EDMONDS: Are any of the major countries in those?

MR. MOORE: I think at least every country has signed one treaty.

CHAIRMAN CADY: Just half of the afternoon session is over, and the current state tax investigations discussion will be presided over by A. J. Maxwell of North Carolina. It is a real pleasure to present the gavel to Mr. Maxwell.

A. J. MAXWELL, Commissioner of Revenue of North Carolina, presiding.

CHAIRMAN MAXWELL: Mr. President, Ladies and Gentlemen: The assignment of a session of the National Tax Conference to consider the work of current state tax investigations is in the nature of an innovation and I hope it may prove to be a helpful one. The temporary presiding officer was asked to arrange the program for this session and to open the discussion. I had not intended to participate in the discussion, but several gentlemen who had expected to present addresses this afternoon found at the last minute that they could not be present, and I will ask permission to make a few preliminary comments. Doctor Gerstenberg sets up a list of thirty-one states that have special investigating tax commissions in operation. That is a somewhat larger number of states than I was able to get through the office of the secretary of the National Tax Association, and perhaps includes some few states the work of whose special commissions has been completed. At any event, the large number of states that are going through this process of setting up special commissions to investigate their tax situations is a sufficient manifestation of the serious difficulties in which our states are finding themselves with respect to their tax problems, if any evidence were needed on that point. It will perhaps not be an extravagant statement, but the evidence on this point is vociferous in almost every community in every American state. So, we are spending large sums of money in this special investigation work.

The purpose in the assigning of this subject at this conference I assume to be, first, that it may bring before this conference, and

thus make available for a larger use, suggestions intended to promote the usefulness and efficiency of this type of investigation, and that there may perhaps grow out of the discussion a suggestion for setting up some central agency for the interchange of useful information, perhaps through the office of the secretary of this Association; and, second, to bring before the conference, and thus make available for a wider use, particular important facts and conditions that may be developed in a particular state, related to similar facts and conditions that may exist in other states, and remedies proposed or advocated in a particular state that may be worthy of consideration in other states. While each of us represents separate sovereignties, with our own experience and traditions and limitations, still there is a large measure of similarity that runs through the conditions in the various states and in our tax methods and procedure. This is in large part due to the fact that for twenty-three years this Association has been conducting this kind of a clearing house, for mutual interchange of information, and has thrown the whole weight of its influence in the direction of uniform practice and procedure, and notably along the line of the subject just preceding this one.

The special commissions have a very difficult task, one in which I am sure they are entitled to all the sympathy that we can give them. They are not called into existence until a state finds itself in such a serious condition with respect to its tax problems that no one knows what to do with it, and then a special commission is set up to make a special investigation, and of course with the hope and thought that such special commission will be able to find some magic remedy for the basic difficulty, which we have in all our states, represented in the tremendous increase in public expenditures by the demands of the citizens for a broader service on the part of their state and local governments.

Perhaps the next stage in this investigation work will be that of the investigating commissions. They have a thankless task to perform, and perhaps some of the criticisms of the fact that they are not able to perform miracles are not entirely warranted. One criticism was made at this conference, which I do not think was entirely just, made by a gentleman who presented perhaps the most valuable discussion that will be presented at this conference—I refer to Mr. Johnson of California—that the special tax commissions were failing to emphasize the point that the real trouble is in the too rapid increase of public expenditures, and that they were giving their time and thought too much to the other side of the question, and to new methods of raising revenue to meet it.

I don't think that is entirely a fair criticism. I know it is not with respect to the North Carolina commission. I think perhaps the largest part of our investigation work was directed to the point

of setting up a complete picture, actually and relatively, of what the tax burden in North Carolina amounted to, and a complete picture of the total indebtedness of every kind and character, by all units of government in North Carolina. And, a large part of the report itself was given to the setting up in as complete, strong and argumentative a way as possible the very striking facts along that line.

It undertook to call attention to the fact that we had reached the danger point, both in the rapid method of increasing public expenditures and in the issue of public credit to provide these facilities. In other words, we, in the best way that we knew how—and we had some six hundred pages, statistical and argumentative—we set up the subject that the gentleman in the address last night so weightily summed up in the suggestion that we needed to give the elephants a chance to catch up with the band wagon.

One feature that I hoped might be brought out in this discussion would be that the states carrying on this kind of investigation work would bring before the conference some suggestion as to what they regarded as the most interesting line of investigation which they were undertaking.

For our own state, I am quite sure that the most interesting subject that we are investigating this year is that of secondary public highways. In our report two years ago we set up the contention that public highways were maintained in such large degree for the use of motor vehicles that the cost of maintaining public highways, not only the main arteries in the state system but the cost of maintaining public highways, should be furnished by the automotive industry.

Of course we know that one of the largest items in the tax bill of the average taxpayer is the cost of maintaining his secondary or county highways not in the state system. And, if through the gasoline tax and the automobile registration tax we have what approximates a fair method of apportioning the cost of that service, it seemed to us that that measure ought to be utilized not only to maintain the eight or nine thousand miles of state highway but to maintain substantially the highway system of the state, including its secondary highways. An increase of one cent a gallon in our gasoline tax was made for this purpose; and upon a recommendation that it be used by the State Highway Commission to take over secondary roads previously maintained by the counties, the additional one cent tax was enacted; but, in the Act there was an amendment which left it optional with each county as to whether it would accept maintenance on the part of the State Highway Commission for its portion of that fund, or whether it would accept the fund in money and apply it on its highway indebtedness; and under that optional plan nearly all of the counties took the money.



However, there were a small number of counties which said to the Highway Commission, "Give us the benefit of your service and maintenance instead of the money;" and a very surprising thing happened. The few counties that did that had their county roads maintained in much better manner than they had been before and at much less cost, and without any cost to the counties themselves.

Another feature of this highway investigation, which is being made this year jointly by the United States Department of Agriculture, the State Highway Commission and the State Tax Commission, is that they are undertaking to make a very thorough survey of that question. They have measured and mapped every mile of public road in every county in North Carolina. They made a highway map in each of the one hundred counties; and where we had formerly understood that we had sixty-six thousand miles of public highway, I noticed in one of the papers presented at the conference that North Carolina is listed with seventy-one thousand miles. Presumably the seventy-one included the state mileage in the system. But, the best information obtainable before this survey was made was that there were sixty-six thousand miles of county public roads in the state system. This survey indicates all that they had been able to find, the representatives of the United States Department of Agriculture, the representatives of the State Highway Commission, acting with the county engineers and county superintendents of roads. All they have been able to find is forty-five thousand miles, and in quite a number of counties the mileage is substantially less than one-half of that previously set up as the mileage by the county highway engineer or the county superintendent of roads.

So, it looks as if we are making some real progress in the direction of a state-wide system—a complete state-wide system of public highways.

I perhaps ought to apologize for taking even this much of your time in opening this discussion. The first gentleman that I am going to ask to talk to you on the subject assigned is one whom I am sure is exceptionally well qualified to advise with respect to the work of special tax-investigating commissions.

In a memorandum made out by the secretary of our commission I notice he has listed West Virginia, Minnesota and North Carolina. He was only in North Carolina a very short time, doing some special investigating work for the North Carolina commission, but in that time we were highly impressed with his ability for this character of investigation work and his fair attitude. The only criticism that I would have to make of his work was that he made a survey of the income-tax division of our state department of revenue, and he set up a standard under which he thought that department ought to be operated. His report was adopted and printed in our report, the report of the commission of which I was

then and now am chairman, and since that time the chairman of the tax commission is administering the state department of revenue and he finds some difficulty in administering it according to the high standards that this gentleman was responsible for. I take pleasure in asking Doctor Roy G. Blakey, professor of Economics of the University of Minnesota, who has recently been engaged in some tax work in the state of West Virginia, to address the conference.

### SPECIAL STATE TAX INVESTIGATIONS

ROY G. BLAKEY

University of Minnesota

Special tax investigations may be made by permanent tax commissions or by special commissions or by experts not attached to commissions. We shall consider briefly the advantages and disadvantages of each method as well as questions of organization and methods.

Prior to the beginning of this century almost all special investigations were made by special committees or commissions. This was due largely to the fact that it was only after this date that states began to set up permanent commissions. When the tax system of a state needed attention, or when the state needed more revenue, the governor or the legislature appointed a special group which reported and disbanded. In a few years when trouble again threatened, another call was issued, another report was made. About 1900 or a little earlier some of the leading states began to create permanent commissions. In nearly every case, the origin of the permanent commission was due to a special commission which had been summoned to remedy bad conditions, and as part of its report it recommended a permanent organization. Such a commission could not only make reports but would stay on the job.

Some of the advantages of having special investigations made by permanent commissions are as follows: (1) they know the outstanding conditions because of their familiarity with the situation; (2) they know what is politically feasible; (3) they remain to carry out the recommendations if enacted into law; (4) they can continue to advise and repeat recommendations when their ideas and advice have not been carried out. Such investigations would usually be made by the tax commission's bureau of research which should continuously make studies of outstanding problems and conditions. This would insure a year-to-year program of steady progress and would be the ideal way to carry out investigations.

Wisconsin has been a leader in this method of tax research. Special study of one or more problems is always being made so that a body of information is developed. The commission is, therefore, always prepared to advise the legislature and the governor.

In this way sounder progress is achieved than by any other means. New York is another state that has been unusually progressive in this respect. There have been also some special tax investigations in states having permanent commissions, usually when the legislature seemed to think that the regular commission has not been alert or when it wanted to further some special idea. Those in charge of some of these special investigations have cooperated with the permanent commissions. Some commissions that were formerly quite alert and fruitful in their studies of tax matters have slumped a good deal in recent years. Apparently they have become engrossed in routine matters, have lacked funds, have become tired or discouraged, and have discontinued most of their more valuable research.

This suggests the handicaps of the permanent commissions. The routine of administering the tax laws takes most of the time of these bodies. In these days of economy, funds are low. Legislatures disregard repeated recommendations. It is felt that things can go along as usual. So they ease up in their efforts, think along the same old lines and easily fall into ruts.

When this point is reached, or before, there is need of someone with new ideas and new energies. This indicates one of the great values of a new commission or of an outsider if he is of the right sort. He can present a fresh or, at least, a different point of view. Furthermore, he can say things which one in the administration cannot express for political reasons. He may make recommendations which the permanent commission would hesitate to make. If he is from outside the state, his recommendations may carry more weight, because it is felt that he is free from personal bias and has nothing to gain personally or politically, whereas the same suggestions from a local business man, or a commission composed of such men, might be looked at askance because of a deep-seated suspicion that they represent certain interests which have something at stake.

Furthermore, an expert from outside the state may urge laws that tend to promote harmony between states, for he may have broader grasp of what is going on in other places. For example, inheritance and other tax legislation should be such as to prevent overlapping, but the officers of a particular state are usually not anxious for reciprocity if it means a loss of revenue. An outsider sees the advisability of interstate comity even if it means that some one state will get a few dollars less, and he may recommend a policy for the general good even at some slight sacrifice to one. The "Model Tax System" recommended by a committee of the National Tax Association was drawn up to promote harmony between the states. An expert can show a state how to work in that direction and can point out the advantages of so doing both for one particular state and for the country as a whole.

A special commission may help get a state out of a rut. Things are probably in a bad way or the commission would not have been appointed. The very fact of its appointment by the governor or legislature focuses attention on the situation and this in itself is a means of educating the public. It is hard to accomplish much for the state if the people are not awake to its needs.

But it should be remembered that a report, after it is presented, is an inert thing unless there is a strong leader to carry through the recommendations made. The governor or some one else must take it up and push it if the most is to be made of the possibilities. Even if recommendations are not carried out, the report is probably not a total loss, however. It may help to build up public opinion gradually and may be used by later commissions.

Let us turn now to the composition and organization of special commissions. A typical commission is the legislative committee. This may be either a session committee or an interim committee. The former is usually appointed near the beginning of the session by the legislature. It is made up of men of their own group with, occasionally, a trained assistant, possibly an economist. While this is a common method, it is not usually very effective, especially if the committee does not have competent assistance. The members are engrossed in many other duties. They may find the most outstanding difficulties but seldom can do a thorough piece of work while the legislature is in session.

Often an interim commission is authorized. It is made up of members of the Senate or House or both, and it is usually expected to report at the following session. Some such groups have done excellent work. To accomplish this, it is desirable to begin immediately at the close of the session rather than delay beginning for 18 or 20 months. It should secure a staff of trained investigators to do most of the work and have them report as to a board of directors. It is all too common to postpone meetings of the commission until the summer or fall before the legislature is to meet. The members then are too busy with their law practices, farming or other regular duties to pay much attention to the subject of taxation. Suddenly they realize they must do something, so they announce hearings. Anyone may come and air his grievances. This may be the end of the matter, or they may make some investigation, perhaps, sticking their heads in the doors of state institutions or making tours to different parts of the state. The crucial point is that these men have not the time or training to get the necessary information and often they fail to get competent assistance. As a result, such committees too often achieve very little of substantial value.

A different kind of commission is secured by authorizing the governor to appoint a group of the leading business men of the

state. For example, he may select half a dozen representing the state's prominent businesses or industries. They may get a statistician and some stenographic help, but little other competent assistance. One such group toured the state holding open hearings and they even made a junket to Washington where they interviewed political leaders in Congress. The best advice they received was to get some expert like R. M. Haig or T. S. Adams to make a study for them. Such a committee could at best get opinions but very little well-ordered, dependable information that will serve as a basis for intelligent legislation.

Another example of a commission of business men appointed by the governor is that in which the commission considers itself a board of directors, has an adequate budget, and time enough to make a thorough study. One such commission selected an experienced tax authority who built up his staff of economists, engineers and other experts. This staff reported from time to time to the commission. A few hearings were held, but the advantages of these were largely political and educational, that is, they let the people know what was going on. A report by such a group is valuable not only to the state for which it is made but to every state in the Union. It will be taken as authority by investigators and legislatures in a dozen other states. The 1929 report of the California investigation was of such a character.

Another state worked out the following organization. The governor appointed a group, most of whom were business men, but the chairman was a state official who knew something of the tax situation. Besides, he was a man of high caliber and of fine public spirit. This committee selected an executive secretary who took charge of the survey. He was a clever young man, well educated, but not much experienced in tax matters in the beginning. He consulted various competent authorities as to methods and plans of developing the study. He felt his way slowly, gaining experience as he went along, and became a fine leader. The fact that there were two years in which to make the investigation and that the commission began early, gave time to do a good piece of work. The chairman and the executive secretary did most of the planning in organizing the investigation and in securing the personnel. They selected a staff by engaging a few outside experts to make special studies and to act as general consultants. The larger part of the staff was chosen from the state university and other state schools. For example, an agricultural economist from the agricultural college investigated the taxation of farms. Another economist from the state university who was familiar with the taxation of public utilities investigated that matter. Another familiar with banking made the study of bank taxation for the commission. And so on. The commission met frequently as a board of directors and criti-

cized the reports of various investigators as well as discussed general policies. An unusual amount of valuable information was secured; it was analyzed unusually well, and the governor and the legislature complimented it by paying more than usual attention to the recommendations.

Still another method is for the governor to appoint one experienced investigator from outside the state. In one case, both time and funds were limited but the governor wanted definite recommendations to present to the legislature and wanted them from an unbiased source; that is, he wanted an expert to diagnose the case and prescribe the cure. Arrangements were made with the president of the state university for some help but much of the assistance was more or less voluntary and subject, therefore, to some uncertainty.

Besides the suggestions implied in the above discussion, two others may be made in conclusion. They are not new, but, if carried out, would aid greatly most special and also most permanent tax commissions and tax investigators.

(1) The most important tax is the general property tax and most of that falls on real estate. The easiest and cheapest way to check up administration of the tax on real estate is to compare assessed values with sale prices. Every state should check assessments with all representative sales regularly. The great difficulty is that most deeds give nominal considerations rather than the true price paid. The law should require that the true price be named. If necessary, a separate affidavit might be filed and made accessible to officials only. This is a little reform with large possibilities.

(2) There should be centralized cooperation of states in getting tax information. At present it is necessary to write 48 letters as to tax collections, cost of administration, etc. with the possibility of some not being answered, or of the data not being on a standardized basis. This results in unnecessary waste of time and energy on the part of both investigator and tax official. The National Tax Association might well take steps to provide the service indicated, or see that the need is met through some other competent agency.

EDWIN S. TODD (Ohio): Mr. Chairman, one time last spring a friend and I were leaving Chicago in an automobile. At a certain corner a policeman stopped us and by a twist of his thumb urged us to go in a certain direction. My friend said we wanted to continue on highway No. 42. The policeman said, "I ain't telling you where you want to go; I am telling you where to go." So, my angle of approach is such today that I shall tell you not what we should have done but what we have done, and leave the criticisms, if there be such, to others. This will be entirely an historical study, dealing with the progress of tax revision in Ohio.

It certainly would not be in good taste for me, from my standpoint, to make any criticisms whatsoever.

The Ohio constitution as amended by vote of the people in November 1929 is somewhat complicated as to subject matter. It first provides indirectly for the classification of intangible property through the declaration that "land and improvements thereon shall be taxed by uniform rule according to value." Secondly, it declares that the tax rate on realty and improvements thereon shall not exceed one and one-half per cent. This limit may be exceeded however by a majority vote of the electors of the taxing district voting on such proposition or when provided for by the charter of a municipal corporation.

It may seem inconsistent to place such a highly objectionable clause in the constitution at the same time that we were removing from the constitution a provision that hampered progress. The explanation is found in the fact that it was placed there as a matter of expediency in order to ensure a favorable vote. Of the two evils, the tax-limitation rule was thought to be less objectionable than the uniform rule. Then too, the limitation provision has a loop-hole big enough to permit as much evasion as is possible under the present legislative restriction.

Inasmuch as the constitution already provided for an income tax, the adoption of this amendment made possible a general and comprehensive reorganization of the tax system. Could it be done? Would it be wise to do so? In voting the amendment did the people intend that there should be a general revision? Such were the questions that arose immediately after the election. Certain economic groups contended that there should be a radical revision while others contended that the campaign had been waged on the score that the amendment implied only a mandate for the taxing of intangibles through differential rates.

Another interesting situation arose immediately after the election. Many of the various organizations, farm, commercial and civic, that had cooperated in the campaign for the adoption of the amendment, started separate movements for the preparation of a tax program to be presented to the next state legislature. As a result, it appeared for a time as if there would be a half-dozen independent investigations going on at the same time. It can readily be seen that such a situation would lead to possible disaster to the cause, because of discordant views colored more or less by the peculiar interests of the groups involved.

Governor Cooper, however, took the matter in hand and decided to appoint a general committee composed in large part of members of these organizations. The other organizations very soon voluntarily withdrew from the field and thus forestalled any competition with this general committee which came to be known as the Gov-

ernor's Committee on Taxation. The fact that Governor Cooper appointed a very large committee of more than one hundred and thirty members may be explained and probably justified by the situation which pertained as outlined above. In a speech at Zanesville the Governor defended his taxation committee, and declared his continued confidence in his organization of the committee as the only way that worthwhile results could be secured.

The general committee was first called to meet on December 20, 1929. The Governor in his address stated that he had intentionally selected "representatives of every group of taxpayers and all classes of citizens of Ohio." The chairman of the committee, Mr. E. J. Marshall of Toledo, in his address, also declared that the "character of the committee as conceived by the Governor necessitated its size." Carrying out the idea of the Governor, he recommended that three types of sub-committees be set up: (1) Special group committees representing agriculture, banks, insurance, etc.; (2) subject committees for the investigation of such problems as mortgage-recording taxes, sales taxes, etc.; and (3) technical committees for the study of such questions as constitutional law and drafting.

In addition, the chairman recommended the setting up of a committee on research which "should be given the task of searching for, assembling and analyzing the figures bearing upon all proposals which appear to merit consideration." This committee was to be wholly independent of every other committee in order that it may be free "to assemble facts and test proposals so that guesswork may be minimized."

An administrative committee was also set up, composed of the chairmen of the various sub-groups, which should have general charge of the work of the sub-committees.

The general committee organized in accord with these recommendations—and the sub-committees set to work.

One of the big problems at the outset was the matter of the financing the work of the committee. The supposition originally was that the state would finance the work, but the state authorities declared that they had no authority to use state funds for such a purpose, and the committee was forced to collect funds as best it could by passing the hat among the various industrial and commercial organizations of the state.

In outlining the work of the committee, I shall perforce confine myself to facts, leaving possible criticism to others. Immediately after the initial organization of the general committee, the majority of the sub-committees got to work. Many of them have made final reports. There has been no meeting of the general committee since last January and hence all reports have been placed in the hands of the administrative committee which, however, has held no meeting for several months.



It may not be out of place to summarize a few of the tentative and final reports to indicate the trend of thought in the state. The manufacturers' committee, reporting on July 10, 1930, declared that this committee regards the tax revision problem as being one of balancing local budgets and reducing confiscatory rates upon intangible property. This committee seems to assume that the constitutional amendment was carried on the expressed assurance that the state would adopt a classified property tax.

The committee on banks, in a preliminary report expresses no preference for any particular system of taxation, merely declaring that the banks must be treated fairly. The committee on life insurance expressed the hope that life-insurance companies will be treated more leniently.

Perhaps the most complete and the most constructive report is that of the committee on agriculture. This committee strongly advocates a strict adherence to the tax limitation of one and one-half per cent on realty—particularly farm realty. Speaking for the agricultural interests of the state, it advocates the repeal of all taxes on intangibles and the substitution of a personal income tax, plus a modified sales tax.

The committee on research has thus far acted merely as a fact-finding body. Among the really valuable statistical and factual contributions are: (1) A codification of the Ohio tax laws as of January 1, 1930; (2) Studies covering such matters as the technical details relating to the administration of various kinds of taxes; and the collection of statistical data relative to possible revenues from various kinds of intangibles.

It may be said here, that the various commercial and economic group organizations have generously cooperated in interesting the general public in the cause of tax reform. For example, the Ohio Chamber of Commerce devoted its entire March meeting to the discussion of the general problems of taxation. The members of the general committee were specially invited to listen to tax administrators from other states tell how they were solving their tax problems. Incidentally, all of them recommended an income tax for Ohio.

#### THE PRESENT SITUATION

So much for the work of the sub-committees up to the present time. What can one say as to the present situation and the prospects for preparing a comprehensive general report before the legislature meets next January?

It is difficult to make a precise, clean-cut answer. The situation is rather complicated. In the first place, one may say, without appearing unduly critical, that we are handicapped by the size of the general committee. Naturally each economic group is looking at the tax problem from its own viewpoint. Without doubt, the sub-

committee reports have been of great value but they are of necessity incomplete, because few committees have looked at the tax problem as a whole. Thus far neither the administrative committee nor the research committee has done much extensive or intensive work in making a critical analysis of sub-committee reports and in weaving these reports into a unified, well-coordinated and correlated whole based on fundamental fiscal principle. The greater part of such work remains to be done.

It may well be that the administrative committee will decide to do nothing more than to present to the legislature the very complete and valuable statistical and factual data collected by the research committee. The chairman of the general committee hinted at such a possibility in his inaugural address when he declared that the "work of the committee would be eminently worth while even if nothing else were done than to furnish facts and data for the consideration of the legislature." Naturally such an outcome of a year's work would be a bitter disappointment to the many members of the committee who are hoping that a complete and comprehensive report will be made.

So far as one can judge the direction of public sentiment and opinion through contact with farm and commercial groups in the state, I should say that there is a growing feeling in favor of going further than a mere reallocation of tax rates on intangibles.

Secondly, the present situation is complicated by the current political campaign. The committee itself has made a sincere but unsuccessful attempt to keep tax discussions out of politics. I shall not attempt to go into detail on this point, except to express a keen regret that the work of this or any other tax committee should be affected by the possibility of changes in the political complexion of the state administration.

#### THE FUTURE

As to the future it is difficult to make predictions. All in all, the general committee has done remarkably well when we consider its size and heterogeneous membership. Whether such a committee can agree upon a comprehensive program which must be formulated within the next few weeks is a question on which deponent chooses not to express an opinion. Perhaps it would be far better, if this committee, especially in light of the present political situation, could do nothing better than to present to the coming legislature the mass of statistical and factual data collected by its various sub-groups with the recommendation that the legislature appoint a small committee of experts who would consider this data in connection with the more important task of formulating a complete tax program for the consideration of the legislature.

There is a growing feeling in the state among thoughtful men and recently formulated into a recommendation by the Ohio Cham-

ber of Commerce that the next legislature set a time as early as possible in 1932 for a special session of the legislature for the sole purpose of considering tax legislation. If this proposal were acted upon, the legislature could use the regular session for routine work and have ample time for the discussion of the tax problem in the special session. If such a procedure is adopted, the writer voices the hope that the legislature early in its regular session will authorize and adequately finance a small committee, with the command to make a complete report to be presented at the special session. Such a procedure would at least present an opportunity to present and adopt a tax program that will place our great state in the vanguard of fiscal progress.

CHAIRMAN MAXWELL: Mr. Brindley, hasn't there been a special investigation in Iowa that you can tell us about?

JOHN E. BRINDLEY (Iowa): I was not expecting to be called upon.

CHAIRMAN MAXWELL: The conference will understand that.

MR. BRINDLEY: It has been my privilege in the last twenty-one years to have served three special tax-investigation commissions of this kind, one in 1911 and 1912, one in 1922 and 1923, and the third at the present time. I do not at this late hour believe it advisable to go into any detailed discussion of the work of any of these commissions but possibly in five minutes I can make a few remarks that will be of interest.

The commission in 1911 and 1912 was a special commission of five members that worked a year and a half, and the adviser or secretary, as I was called at the time, had most of the work to do.

Briefly, in 1922 and 1923 there were eight members, four representatives of the Senate and four of the House. Working then about a year and a half they met for some fifty or sixty days, all told, and one or two members of the committee did a very pretentious amount of work, but again the adviser in that case, as I was called, had a very large part of the work to do in drafting the report, and so forth.

This present commission of six members, three representatives of the Senate, appointed by the president of the Senate, and three of the House, appointed by the speaker of the House, have taken their duties very, very seriously, have done a large amount of careful research work—and that word is used advisedly—and, working with the permanent state tax board, as we call it, have a report in the process of being completed, which will be ready in another two or three weeks. I am very happy to announce that in this case the technical work that has been so well discussed by Doctor Blakey and the other speakers here, which ordinarily goes into reports of

this character, went into a report which I published two years ago. It will also go into a report which will be published by the State University on administrative matters this winter, so that the legislature will have before it a copy of my report of a year and a half ago, which has been sent over the country quite generally, a copy of the University's report which will be written by Mr. Doc Nelson, and it will have a very brief summary of recommendations with bills for Acts. Now, up to the present moment I have not written a single word of this report. I hope that will be true when we are through. I may help them a little, but the point is, we tried in the year and a half to have the members of this committee digest a great many of these other tax reports; and I will say this much, that the report, if I were writing it, would not be substantially different than it would be at the present time. We have some six or seven bills. The first bill is a personal income tax, which will, if it is enacted into law, as I frankly think it will be, yield from five to six millions of dollars; the second is a bill which will levy a tax of six mills on what is sometimes called corporate excess, the intangible value of business over and above physical property. That is the briefest way of putting it. This bill, it has been estimated, would bring in just about as much revenue as the ordinary corporation income tax would bring in, probably two and one-half or three millions of dollars; the third, is a bill to abolish all the locally elected assessors in Iowa and in lieu thereof provide for ninety-nine appointed county assessors. Now, strange as it may seem to you gentlemen, I am of the opinion that we have a very excellent chance of passing all three of those measures. Of course the latter one is the extremely important measure.

I might state briefly that in the last twenty years we have in Iowa three appointed county officials, a county engineer, appointed by the county board, who may be expelled by the state highway commission; a county agricultural agent; and a county superintendent of public instruction. We have that background of twenty years developed, and on the basis of that background we hope to be the banner state of the Union in abolishing the antiquated system of elected assessors and substituting in lieu thereof ninety-nine appointed county assessors. Of course it is almost too good to hope for, but we have a very good chance, I think.

CHAIRMAN MAXWELL: Did you say how they were to be appointed?

MR. BENDLEY: By the county board of supervisors.

The fourth are bills for Acts to reduce the flat rate on moneys and credits. I cannot go into detail here. We have a bill on building and loan associations; we have a bill on mortgage-registry tax, and a series of three or four bills along that line which will bring

in a fair amount of revenue. I might state in conclusion, and you will be surprised when I tell you this, that the labors of this commission were provided for in what is known as Joint Resolution No. 9, which instructed this committee to find ways and means of securing revenue in Iowa without any tax on general property.

As a result of the investigation extending over a year and a half, the committee of six members, and the state board of assessment and review, and our tax commission of three members are unanimously of the opinion that that was a very unwise resolution, but our recommendations will not be along that line. In conclusion, I will say this, that the major question in public finance in this country today is the relief of real estate from taxation.

Now then, if we get a personal income tax bill, and this corporate excess bill passed, the estimate is that they will yield about eight millions of dollars. I am not at liberty to discuss the apportionment of those funds just now because that question has not been settled; but the point is that in the last year the general property tax of Iowa has increased, for reasons which I have not time to discuss, from one hundred and three millions of dollars to one hundred and ten millions of dollars, a seven million dollar increase in general property taxes in Iowa under the present economic conditions. In other words, even if we get our report through, it will only be a drop in the bucket, which explains the reason why, while the other members were going to other group meetings, I went down and listened to the gentlemen from South Carolina. We are going to have to face in the American commonwealth sooner or later not merely all the income taxes that can reasonably be taxed, but we have to face, at least in my judgment, the experience of South Carolina and some other states, with reference not to general sales but to a specialized sales tax and the excise taxes, which bring in about four millions of dollars in South Carolina.

CHAIRMAN MAXWELL: We are indebted to Mr. Brindley for his very practical suggestions. There are several other gentlemen whom the Chair might call on, but perhaps in the short time that we have left for this afternoon's session the best procedure would be to open the conference now for voluntary discussion, and the Chair will be pleased to recognize any gentleman who will offer anything on this subject.

CHARLES J. TOBIN (New York): I think it was stated that there are some thirty-five states that have special commissions. I take it that the objectors in these thirty-five states are alike in many respects. Senator Edmonds this morning, in the report of his committee, urged uniformity in our tax laws. We have had here in the conferences of this Association for many years many objectors to uniform tax laws. Would it be possible to use the agency of the

National Tax Association to keep these thirty-five states informed of what is going on within these special tax commissions so that when their deliberations are completed they will at least know what is going on within those different commissions? If it is directed to finding out what the burden is on real estate, if that information could be spread about, so that New York is informed what Illinois finds, or what Ohio finds to be the burden on real estate, or some other form of taxation that may be under inquiry by six or seven or eight states, when that is found if it could be sent immediately to the other states who have the subject matter of better tax laws under way, it would be a real object if we could use the medium of the Association to spread that information to the various commissions that are now in existence. I just throw that out as a suggestion, because Senator Edmonds this morning stressed uniformity in tax laws. We are not going to have uniformity unless we cooperate in our work. Here are thirty-five commissions in thirty-five states attempting to do a particular job or general job in new tax laws. Can't we in some way bring that material together so that each of the thirty-five states will have it in hand as they move along in their particular tasks?

CHAIRMAN MAXWELL: Thank you for putting that suggestion in the record, and no doubt the officers of the Association will give it consideration. I would like to supplement it by just an additional thought, that one real burden of tax commissions is answering all of the requests that they get for information about their state. These requests are coming from all other states, and the same thing is true with respect to the commission in each state. Now, if that information could be furnished through one central source it would very greatly simplify the work of furnishing that information and also the work of obtaining the information.

CHARLES J. TOBIN: Mr. Chairman, to go a step further, my notion was if we could have a clearing house through this particular Association, that would more or less assemble the general information, the general inquiries of the commissions, and then send that back to all, I am sure it would be a great step forward. I think it is absolutely silly for us to go on and say that we should have uniformity in our tax laws if we do not do something within ourselves to help that uniformity. Here are these thirty-five states working to get better tax laws, or to find new sources, or to change their old schemes of taxation. Should we stand by, knowing that all this exists, knowing that at least thirty-five states are on this particular job today, and do nothing about it?

JOHN E. BRENDLEY: One other thought. I admired very much Mr. Blakey's paper, and I am not disagreeing with him, except in this one detail: I think that while the permanent tax commissions

should do all the research work that they have funds to do, there are times when special commissions are a little more free to help out. I know that is true in Iowa and I think it has been true in some other states.

HENRY F. LONG: Just a word, because Mr. Tobin was not really answered. I think what Mr. Tobin has in mind is in the mind of the Association officers, and may possibly be brought out this evening in Mr. Fairchild's remarks in the thought of extension. One of the things that was considered was the very thing Mr. Tobin suggested, namely, to have these thirty-odd states have an opportunity to get what other states were doing, by a centralized filing of the various reports. One of the things that occurred to me, though, in the matter of making these reports, possibly is not a good one, but my experience sometimes has prompted me in the thought that many of these tax investigations were not well laid, that in truth many of them were started with the idea of eliminating or getting rid of some objectionable tax proposal, which at a particular legislative assembly it was assumed would go through, and that the softest way to let it down would be to have it referred to a special commission. I think a great many of those special commission reports are simply a featherbed upon which some of these fine legislative proposals were dropped. That is not true of North Carolina and some of the other commissions' reports but of these thirty-one investigating commissions throughout the states my thought of the matter is that about twenty-one or twenty-three will turn out to be duds.

CHAIRMAN MAXWELL: The Chair will be pleased to recognize the representative of any commission, who has not been called on, or any gentleman connected with any special survey that has been made either by a state or other agency.

JENS P. JENSEN: I don't know whether the invitation is still standing or not. I want to say very briefly that I have been connected this summer with a type of investigation that is unique in one respect. All of the investigations that Professor Blakey mentioned this afternoon have this in common: They are made by some branch of the government, either the legislature or the governor. The one I am thinking of was not so sponsored. I refer to the Colorado survey, which has just been completed, and which I think will be printed and available within a week or two.

At the last legislative session of Colorado, it was attempted to secure a legislative commission or at least a commission of some sort, subject to the authority of the governor or the legislature, to study the tax system of the state and report, but in the jamb of the last days of the session, and owing to the fact that there was a democratic governor and a republican legislature, that did not go

through. I suppose that happens often. The Denver Chamber of Commerce decided it would be a good thing if the information was available, so the Chamber undertook to raise enough money to finance at least a modest survey, and asked me to come and make it. I began on the first of May and stayed there in Denver for some time. Off and on I think I must have spent something like fourteen weeks there. My assistant, who did most of the work, is here, and one of the other assistants is here. The report will appear with something like 220 pages. I hope you will take a look at it, even though it is not sponsored by some form of government.

Now, I think sometimes it may be that an investigation of that sort may be useful. In this case it comes in as an emergency. At least two more years would have elapsed if it had been necessary to wait for another legislature to proceed with such an investigation. It is in a sense an emergency. Perhaps investigations of that sort should be mainly emergency investigations. It is better perhaps that the investigation or the makers of the investigation shall be responsible to the government, but I think this will be useful in large part. Perhaps it may be as useful as the government-made or government-sponsored investigation would have been. It has obviously some disadvantages. In the first place it has no authority to compel information. It has to ask for the information and it cannot demand it. That may not be of importance in a great many respects, but in some cases it is. Then also it runs the risk, unless it is very carefully guarded against, of not having the confidence of the people. Of course some of the others do not necessarily have the confidence of the people either, and don't amount to anything, but it runs the risk of not being accepted as trustworthy, and may be suspected of being made by an agency that had an ax to grind.

I think the Denver Chamber of Commerce wisely called in separate bodies from all over the state for counsel, and acted wisely in having repeated conferences with various business agencies. Nevertheless, the disadvantage remains. But, on the other hand, as I say, we could not have had that investigation until two years later, and perhaps not then. Such information as it contains and such proposals as are embodied therein will be available for the legislature two years earlier than they would have been otherwise. The people in Colorado thought the situation was critical, as they always think when they have a commission for investigation. Taxes on property were too high. There were some other difficulties. There were some people who were very impatient with the way the intangible taxes affected business, taxes on intangible property. So I say, the principal thing that can be said in favor of that sort of investigation is that it can be done speedily and economically because you do not have to counsel. It may have the offsetting dis-



advantage that the opportunity of counselling with others does not come in. If it is done by one who is wise, the report may be good; if it is not, it may not be good.

I thought I would mention that as a type of investigation that at least has some claim to attention, although it has not the governor for one of its parents and the legislature for the other.

C. R. WHITE (New York): After hearing this discussion I thought it might be of interest to those who are interested in tax revision generally, where these different commissions are working, to get the reaction that we have in the state of New York. Since 1920 we have had almost continuously special tax commissions making investigations, and in all cases with competent experts. Quite a large volume of very valuable material has been accumulated during that time, but very little has been accomplished in the way of legislation. There is one viewpoint that we must always keep in mind when we are investigating with a view of getting legislation, and that is, investigations that are made by public officials—and I speak advisedly because I have been one, although I am not now in that capacity—are liable to be taken by the people and by the different interests as being something set up to get more money, and not a real thoroughgoing carefully-made investigation with a view of curing any of the ills that relate to the people's welfare generally.

The work of these commissions has been of the very highest type. In addition to that we have in the state of New York, in the department of taxation and finance, a very high-grade research department, with Doctor Howard at the head of it, always pretty well financed. There again we have an accumulation of very valuable information. Some of us conceived the idea that it would be a very valuable thing to have a commission not legislative in nature but a commission which represented the primary interests, so that when we finished the investigation or rather the digestion of this accumulated material there would be the required backing to go before the legislature. I attended some of these other hearings and it seemed to me all of the gentlemen who appeared before the legislative commissions came there for the purpose of not giving any information as to how we might improve our tax situation, but, as I think one of the gentlemen said here, their main object was to tell why they should have their taxes reduced, or not have taxes at all. And, that is no cure for the situation.

Now, the last legislature set up this commission and it was understood by the proponents and leaders of the legislature that we should have only two representatives of the legislature on the commission. We had the chairman of the Senate and Assembly Tax Committees, both of them men of long experience in tax legislation, and both of them very high-minded men. They did not give us

quite as much as we wanted, because we would like to have had a little more representation. But, we had on that committee, which was appointed concurrently by the Governor, the President *pro tem.* of the Senate and Speaker of the Assembly, a man representing the mercantile interests, a man representing the state in the person of the budget director, a person representing industry, and Mr. Frank Zoller, a member of this organization, who is tax attorney of the General Electric Company, and there was one representing agriculture, and so on. Now, we have employed Doctor Haig, whom you know, and who is Doctor Seligman's assistant. We have reserved the right, with Doctor Haig, to have Doctor Warren of Cornell to take the agricultural or rural research work and give us some material on that. In every respect we reserve the right to call in other experts. In fact, we have already arranged with Doctor Bullock. We are going to submit questions and sit as a jury on this matter, in every one of these phases of taxation. We want the facts. We do not want any man's opinion, we want the combined opinion of the best authority available. The law calls for the cooperation of our two tax commissioners in New York, whom you know well, Mr. Commissioner Graves and Mr. Commissioner Merrill. Now, we have the backing of the legislature. That bill provides that we shall find the different sources of income. We will carefully analyze each source with two or three views, perhaps, first to find out what possible income may be derived from that source; second, what is going to be the effect upon the particular interests taxed. Then comes the reciprocity question—how far we can go. We have trouble with that in the state of New York. The third is, what is its equitable portion of the entire amount. No matter whether it is great or small, what is its equitable portion of the entire income of the state. And then comes the question of the allocation of funds to the subdivisions of our state—and we do a lot of that in New York State—allocation equitably between these subdivisions to take care of our schools and roads and the expenses of state. Of course the legislature wants our report by the 15th of next February. You gentlemen know that we won't do it, or even within a year from that time.

We have a very fine corps of research men and we are going to the bottom of it, and every man on this committee is obliged to be absolutely open-minded and fair, and to examine the other fellow's conditions and his rights as well as his own.

Something else was brought up here today. I think Senator Edmonds said that it is not a case of individuals not wanting to pay taxes but they would like to have something to say as to how they want to pay it. I think we can gain a great deal by getting in the different taxed interests. We do not want a committee so big that it is unworkable. We are just going to sit down recognizing that

each one ought to pay his share. And, gentlemen, the payment of taxes is just as much a duty of the citizen as it is to pay the grocery or coal bill or anything else. We are going to find a solution of these problems. Men do not like to have these things forced upon them but they are usually willing to do their share.

In our state, as has been said already, we have a number of sources of income. I think when we get into the different subdivisions, there are something like twenty-two or twenty-three of them. Our constitution is wide open. We are not hampered by constitutional provisions so far as the state of New York is concerned. We may have to have some consumption tax of some nature, and I will tell you the reason why. We have been tremendously liberal in the state of New York in exempting certain intangibles from taxation, and we have been tremendously liberal in New York in exempting a great deal of real estate from taxation. We have real estate belonging to religious institutions running into many millions of dollars in excess of what they are using for religious purposes. We made a mistake. There are incomes that are made from sources that we cannot reach. We have too many people that are getting away with good incomes and not paying any taxes. And, it is possible we shall have to resort to some luxury taxes, at pretty good percentages.

I am telling you this to show that New York is trying to get a solution of this question by coming to the taxpayers themselves, appealing to their consciences to make them feel that it is their privilege and duty to meet their portion of the entire load of taxation. That is quite a bit for New York. We run about a billion one hundred million dollars. The state of New York allocates to its schools over one hundred millions. It is a big proposition. When I say to you that Commissioner Merrill made the remark to me a couple of days ago that if we could levy a one and one-quarter per cent tax upon the wealth of our state, we could have more money than necessary to cover the expenses of the state and subdivisions, you can see that it is not going to be a tremendously heavy burden if you can get everybody to do his share; and that is what we are after.

CHAIRMAN MAXWELL: Any further discussion? I think it is time to adjourn. What is the pleasure of the conference?

(Motion duly made and seconded to adjourn)

(Adjournment)

## NINTH SESSION

THURSDAY, OCTOBER 23, 1930.

EIGHT O'CLOCK P. M.

CLARENCE SMITH, Vice-President National Tax Association, presiding.

CHAIRMAN SMITH: Before starting on the proceedings of the conference this evening, Mr. Watson of the farm bureau desires to make an announcement.

JOHN C. WATSON (Illinois): Mr. Chairman, Ladies and Gentlemen: I wish to repeat the announcement which I made early this afternoon for the benefit of any who may not have been present at that time.

The American Farm Bureau Federation invites every one attending this conference, who is interested and who can, to attend a meeting which will be held tomorrow morning in Room 225 of this hotel, beginning at nine o'clock. The nature of that meeting is about as follows: It is not that any one has any cut-and-dried program, or even any papers to read, but there are some people who believe that the time has come when something should be done to remedy the worst injustice of our present tax system, with respect to those whom it injures most. We hope it is the beginning of something which will result in something worth while, perhaps not this year but at some time in the future, and every one who is interested in a subject of this kind, whatever his personal interest may be, is cordially invited to attend.

CHAIRMAN SMITH: Members of the conference, we are going to have a very interesting session this evening. The one speaker on the program will be our president, Professor Fred R. Fairchild. As far back as I can recall, Professor Fairchild has attended all of the meetings of the Association, has served in various capacities, and has given unstintingly his time for the improvement and betterment of the Association. We will now be glad to hear from Professor Fairchild, whom I deem most eminently qualified to speak on the subject of "The Future of the National Tax Association."

(All assembled arise.)

THE FUTURE OF THE NATIONAL TAX ASSOCIATION  
PRESIDENTIAL ADDRESS

FRED ROGERS FAIRCHILD

National Tax Conference, Kansas City, October 23, 1930

I never fail, upon the occasion of one of our annual tax conferences, to experience a feeling akin to amazement at the vitality which seems to exist in this our pursuit of the baffling problem of taxation. Undoubtedly the superficial observer would find it not entirely easy to understand the presence each year of this large and representative company of men and women, cheerfully giving a week of their valuable time and incurring substantial expenses of travel for the attainment of a reward which must after all appear somewhat intangible and elusive. To no one does there seem promise of any great substantial gain.

Yet here we have all been coming during these twenty-four years since the National Tax Association had its birth in Columbus, Ohio, in the year of grace nineteen hundred and seven. And our numbers and our interest and our enthusiasm have steadily grown. The explanation of this phenomenon lies, I believe, in the inherent nature of the National Tax Association as an educational enterprise.

For that, most emphatically, is what we are. Here come the tax officials, who have ever constituted the backbone of our organization, seeking to learn something that may illuminate the path of their official duties. Some of you are tax attorneys or the representatives of large tax-paying corporations, here to absorb something that may enable you better to deal with the tax problems of your clients or the business enterprises you represent. We academic members are here because we know that the sound method of science is a combination of theory and practice and that here we may learn from the experience of practical taxmen. We even admit that we may sometimes—very rarely, of course—learn something from our academic colleagues. Finally there is the goodly company of those who, having no direct professional connection with taxation, are nevertheless interested and desirous of keeping abreast of the times. But let us not take ourselves too seriously. Of course we all expect to have a good time when we attend a conference of the National Tax Association, and there may even be among us those who have come principally “for the ride.” But that only completes my picture; for are not the extra-curricular activities an essential part of every up-to-date educational institution?

In brief, the American tax problem is of sufficient interest and importance to enlist the thought of many earnest minds, whether of taxing officials, taxpayers, tax students, or those with only a more

general interest in practical economics and public affairs. And the annual opportunity for meeting of such minds is one of the chief ends — perhaps the chief end — of the National Tax Association. We meet together that we may both give and receive knowledge from one another's study and experience.

Those who originally conceived the plan of the National Tax Association were wise, and experience has confirmed their wisdom. The National Tax Association has preserved unimpaired its true educational character. It has never become the instrument of selfish interests nor an organ of propaganda. On the other hand, it has made notable contributions to the increase of knowledge of taxation and has exerted a powerful influence upon constructive legislation and administration, both federal and state. The temptation is strong upon me to take advantage of this opportunity to pass in review our twenty-four years' history and to catalogue the truly remarkable record of our achievements. But I must turn my back upon that attractive bypath. I have a different message for you today. I only wish to call attention here to the two essential characteristics of our constitution which, it seems to me, have determined and preserved the true nature of the National Tax Association.

In the first place the founders introduced an interesting novelty in the organic separation between the National Tax Association and the annual tax conference. The conferences are in no sense the annual conventions of the association, as is common among organizations otherwise similar to ours. Each annual conference is a distinct entity, brought into existence when it first assembles and ceasing to exist with its final adjournment. It elects its own officers, makes its own rules, and adopts such resolutions as it sees fit. The connection between the conference and the Association is only such as is necessary to the existence of a series of annual conferences such as this. The National Tax Association is the continuing body, charged with the duty of providing that the tax conference shall be held each year. In fulfillment of this duty, it determines the qualifications of the delegates, arranges the program, determines the time and place of meeting, issues the call, and then turns the conference over, without restriction, to the assembled delegates. Upon adjournment of the conference, the National Tax Association publishes its proceedings and gives such further publicity as may be required to its deliberations and conclusions. The Association also gives ear to recommendations directed to it by the conference and in particular appoints committees for study of special problems in pursuance of recommendations of the conference and arranges for report by such committees to future conferences.

I have said that the Association turns the conference over to the assembled delegates "without restriction," but this is not quite

accurate. There is one exception, and this exception constitutes what I consider the second most fundamental feature of our constitution. In the words of the constitution (certificate of incorporation) of the National Tax Association, "At any such conference, the persons attending shall, by such attendance, be deemed to consent to the condition and limitation that the result of a vote upon a matter involving the official expression of the opinion of the conference on a question of taxation or public finance of general public interest shall not be announced or be given publicity in any report thereof issued by the corporation or be taken as having its endorsement, unless there shall have been full discussion thereof, at that or a prior conference, and unless the vote shall represent the substantially unanimous opinion of the conference, which shall be deemed to be expressed by not less than a four-fifth vote."

The consequences of these two unique characteristics of our organization have been profound. The Association is not bound nor its freedom of action restricted by resolutions adopted by conferences. Neither is any conference bound by resolutions adopted by a previous conference. Times change, and opinions and recommendations adopted at one time may in later years require modification or reversal. Some associations thus find themselves occasionally embarrassed by binding resolutions adopted at past meetings. No such condition can arise with us.

Nor have our resolutions tended to exhibit an ephemeral character or to indicate a vacillating policy. In fact, the resolutions of the National Tax Conferences have been rather remarkable for their solidity of judgment, and with surprisingly few exceptions they have stood the test of time. Without doubt this is in large measure the consequence of the rule which has required that only substantially unanimous opinions of the conferences may be expressed in public resolutions.

It is to this restriction that I am inclined also to ascribe another happy feature of our history; that is, the general absence of attempts to control the conferences in behalf of special interests or to force the adoption of resolutions for purposes of selfish propaganda. While it is conceivable that a well-organized special interest might, through the political methods which prevail in some organizations, succeed in winning a majority vote on some issue, the possibility of securing the substantially unanimous approval of any conference is so remote as to make the effort not worth the trying.

Planted thus on solid ground and guided by wise leadership, the National Tax Association has had a healthy growth and reached a development of which we may be justly proud. Our conferences are well attended and attract national interest. Our publications are taken seriously by public officials, law-makers, taxpayers, and students of taxation. Our special committees have been able to

perform notable services. Our influence upon the spread of knowledge and the development of sound judgment on tax matters among the American public has been notable. All of this is pleasant to contemplate.

But it is not to invite you to such complacent contemplation that I am here today. Rather I wish to present to your serious consideration the question whether the National Tax Association is living up to its opportunities—whether the present position of dignity and authority occupied by the Association should perhaps be, not chiefly a cause of smug self-congratulation, but rather a conscience-pricking reminder that we are failing to render the service for which we are destined and which is now within our power. Let us consider the question with reference to what I regard as our three principal functions; namely, (1) the annual conferences with their published proceedings, (2) the *Bulletin*, and (3) the investigations and reports of special committees.

As to the first there is least to say. In my opinion our conferences are performing well and faithfully their proper function. In the vital importance of the topics considered, in the high character of the papers and discussion, in the sound judgment of the resolutions, and in the usefulness of the published proceedings, I believe the conferences are fulfilling their destiny and need only to continue upon the path that has been marked out. There is no doubt that we might, by appropriate effort, enlarge the number of delegates. But I am not at all positive that this would be an advantage. I doubt if "bigger and better conferences" should be our slogan, or that in this case "bigger" means "better." The character of the conferences is not in their size, but rather in the representative standing and geographical distribution of the delegates and in the standard of the program.

In one respect only do I see clear ground for improvement: The proceedings of the conferences ought to reach a wider audience. The way to attain this end is chiefly through enlarged membership of the Association, and on that point more later.

The *Bulletin* of the National Tax Association is a useful organ. You all know it well. We all appreciate its services in binding together the membership of the Association, in presenting timely news and discussion, in calling attention to current publications, and, above all, in giving to the members Mr. Holcomb's invaluable notes on judicial decisions. We recognize the faithful and generous services of those who have borne the editorial burden.

But after all is said, do you believe that the *Bulletin* is worthy of the National Tax Association or that it is attaining to the measure of usefulness which is possible? Frankly, I do not. There is right now, I believe, the need for a real national journal of taxation, giving suitable attention to the problems of state and local as



well as federal taxation. The field is virtually unlimited; the problems demanding discussion are numerous, vital, and complex. There is urgent need of broad public education on tax matters, and there is, I am certain, a wide and rapidly growing public interest which would respond instantly to any such offering. Already the field is being entered at special points, as by the "Income Tax Magazine," the "Public Dollar" of the Chamber of Commerce of the United States, the "Tax Digest" of the California Taxpayers' Association, the "Texas Tax Journal," and others. Tax matters are receiving much attention in the standard economic and business journals. A national journal of taxation has its audience already assured. It should from the start be on a par with the leading journals in the fields of economics, business, and public affairs.

Obviously our little *Bulletin*, with all its virtues, is not responding to this demand, a demand which, it seems to me, is peculiarly an invitation to the National Tax Association. The sort of journal I have in mind might absorb all that the *Bulletin* now contains and should go far beyond. It should present each month authoritative articles; it should record the current tax news; Mr. Holcomb's department of judicial decisions should be taken over as it now is; there should be a comprehensive department of reviews of current literature; other departments would doubtless grow up; special attention should be given to those intricate problems of state and local taxation which, with their interstate complications, now vex the taxpayers and the tax administrators.

Obviously no such journal can be organized on the present basis of the *Bulletin*. There must be a full-time, or at least half-time, editor, receiving a good salary. Salaries might be required for sub-editors of departments. The pay and the job must be big enough to attract from able men such exclusive time and effort as the *Bulletin* can of course not now demand. I know of what I speak, having myself at one time edited the *Bulletin*. Furthermore, we should not depend on purely gratuitous contributions, but should pay for articles upon terms comparing favorably with other journals of high standing. All of this of course means large expense. But it is expense which is warranted by the great service such a journal would render, and I am confident that the funds may be obtained.

I know that there are those who fear that, if the *Bulletin* should develop into the high-grade tax magazine which I have sketched, it might lose its present influence in holding together the Association through bringing a somewhat intimate monthly message to the members. This is a function which the *Bulletin* has performed admirably, and any plans for a different sort of publication should take careful thought that this function be not lost or weakened. It is conceivable that the *Bulletin* in substantially its present form should be continued in addition to the more ambitious tax magazine.

The constitution of the "International Tax Association," adopted at its second annual meeting at Toronto in 1908, stated the objects of the Association in these words: ". . . to formulate and announce, through the deliberately expressed opinion of an annual conference, the best informed economic thought and ripest administrative experience available for the correct guidance of public opinion, legislative and administrative action on all questions pertaining to state and local taxation, and to interstate and international comity in taxation." (Art. I, sec. 2.)

In some respects the history of the National Tax Association has not precisely fulfilled the prophecy of these words. The resolutions of the conferences, for example, have scarcely occupied the predominant position which this language indicates the founders of the Association foresaw. But the spirit of this statement of purpose has lived unchanged. The National Tax Association has ever been and is today what its founders planned, an institution of education—education, be it noted, of a direct and practical sort, its mission to place the learning of the students of taxation and the experience of the tax administrators in the hands of those who would put such knowledge to practical use. It is for the enlightenment and aid of those who frame the tax laws, of those who bear the burden of tax administration, and of the public, whose opinion in the last resort directs law-makers and tax officials, that the National Tax Association exists. The National Tax Association has never made any conspicuous contribution to research. I doubt much if that is its role. Rather its function is to place the results of research and experience where they will bear practical fruit.

A development which the founders of the Association apparently did not clearly foresee was the appearance of the special committees as a vital part of the Association's educational machinery. It was not long, however, before the conferences began to pass resolutions requesting the National Tax Association to create committees to investigate certain problems and report their conclusions and recommendations to succeeding conferences. There has been a distinguished line of these committees. Their reports have played an important part in guiding the discussion at the conferences and have been an essential instrument in that "correct guidance of public opinion, legislative and administrative action" which the founders of the Association set as its goal.

The certificate of incorporation of the National Tax Association executed last January, contains the following official statement of the objects of the Association, in which recognition is given to the committees:

"To educate and benefit its members and all others who may be interested in the subject of taxation and the subject of public finance, of which taxation forms a part, by promoting the

scientific study thereof generally, by the encouragement of research, by collecting, preserving, and diffusing scientific information and knowledge relating thereto, by organizing conferences and bringing together for discussion public officials, taxpayers and their representatives, students, instructors in universities and colleges and others interested in the subjects of taxation and public finance, by publishing and distributing reports of conference proceedings and such other books, periodicals and publications as may be desirable and helpful for the accomplishment of the purposes of the corporation; by appointing committees for the investigation of problems in taxation and public finance; by formulating and announcing, through the deliberately expressed opinion of its conferences, the best informed economic thought and ripest administrative experience available for the guidance of public opinion, legislation, and administration, on questions relating to taxation and public finance; by acquiring, utilizing, applying, and disposing of property and funds exclusively in establishing, maintaining, improving, and extending the benefits and usefulness of the corporation, through the accomplishment of its purposes, and by promoting better understanding of the common interests of national, state, and local governments in the United States and elsewhere, in matters of taxation and public finance and interstate and international comity in taxation."

Here again it would be a pleasant task to rehearse the illustrious list of our committees, to appraise the conspicuous service they have rendered in disseminating knowledge, and to congratulate ourselves upon the really extraordinary influence which their reports have exerted in the world of legislation and administration. And again I shall turn my back upon the pleasant path in order to invite your attention, not to what we have done, but to what we might do and are not doing.

The president of this Association is able to call upon the most distinguished men of economic science and tax administration and, through appeal to their loyalty to the National Tax Association and their unselfish interest in the promotion of knowledge, to induce them to serve upon committees and give freely of their time and their expert knowledge. These are the sort of men who have served upon our committees in the past and who may be counted upon in the future. But, as our tax system develops, the problems confronting us become increasingly complex, and the knowledge required for their solution becomes more technical, more intricate, more voluminous, and more difficult to gather and appraise. Modern instruments and methods of research have developed, in taxation as in other fields. The day has passed when a group of men, no matter how learned and able, can, by means of correspondence,

two or three luncheon meetings, and the literary exertions of the chairman, formulate the solution to the sort of problem which is being propounded to us today.

The National Tax Conference of 1929 called upon the Association to appoint five special committees. Two of these committees were duly appointed, the one dealing with uniformity and reciprocity in state and local taxation, under the chairmanship of Senator Edmonds of Pennsylvania, the other to investigate the taxation of motor vehicles, with Professor Martin of Kentucky as chairman. You have already been privileged to hear from both of these committees at the present session.

The other committees were to have considered (1) the functions and sources of revenue of the states and their local subdivisions with special reference to the burden of taxation upon real estate, (2) the statutory definition of value for the purposes of tax assessment, and (3) the problem of the assessment of tangible personal property, particularly that of manufacturing and mercantile enterprises. These are all obviously subjects of great importance, upon which it was quite natural that the conference should seek light and upon which the reports of our committees would have been welcomed by the American public. Yet, as I told the readers of the *Bulletin* in June, after careful consideration and many conferences, I have not seen my way to appoint these committees.

No one of these problems can be solved without laborious and time-consuming effort to gather the indispensable body of facts. The kind of men whom we should desire to serve upon these committees cannot be expected themselves to perform this labor. They cannot give the necessary time, and anyway this is not their job. Committees of this sort require the aid of paid research assistants, or the funds wherewith the necessary research may be farmed out to research organizations in connection with the universities or elsewhere. The National Tax Association does not have the money. I wish it distinctly understood that this is the sole reason why all three of these committees have not been functioning during the past year and are not here to report to you this week.

The work of our special investigating committees, if adequately financed, might well lead, through a natural development, to the establishment by the National Tax Association of a bureau of information—a sort of national clearing house for tax information. There is, I think, a real need for such a service. Its first and most obvious duty would be to aid the investigating projects of the Association's own committees. But it would also be in position to serve tax officials and tax students throughout the country. Those who are known by reputation to be well informed in the realm of taxation are in constant receipt of requests for information about an infinite variety of tax matters. Much duplication of effort, on the

part of both parties, is involved in such correspondence, which would be minimized if there were a recognized national clearing house of tax data. Such a bureau would not necessarily require an extensive library; its duty would be to know where the information was, to maintain indexes and bibliographies, to have accurate and up-to-date knowledge of the work of the tax commissions and of all organizations and individuals engaged in tax research. This service might well develop into a fourth major function of the National Tax Association.

If I have the right vision—if the National Tax Association is destined to grow and expand its services as I foresee—then we must face three pressing problems.

The first concerns the executive office of the Association. Up to this time our Association has been able to function through the voluntary and unpaid services of its officers, among whom Mr. Holcomb for the past eighteen years bore the bulk of the burden. He has served us thus willingly and cheerfully, because his heart has been in the work, but I know that of late the labor has been weighing heavily on him and he would welcome some relief. The Association will, I believe, desire to keep Mr. Holcomb in his present office and avail itself of his counsel just as long as he may be willing to serve us. But the time has come when he must be relieved of the routine tasks involved in his office and in the editorship of the *Bulletin*. No association of this sort can go on indefinitely as we have done. I believe that we should at once consider plans for setting up an executive office, perhaps under the direction of a salaried executive secretary or manager, but at any rate adequately equipped with the necessary paid clerical and stenographic assistance.

In the second place, few of us, I believe, if we give serious thought to the matter, are content with the present small membership of the National Tax Association.

There is nothing disgraceful in small membership, and the achievements of this Association have evidently not been proportional to its size, nor has its influence been confined within the circle of its own members. Nevertheless a greatly increased membership is, I believe, essential to that wider sphere of influence which now appears to be easily within our grasp, and its attainment should, I submit, be one of our chief purposes of the immediate future.

I have no interest in any attempt, through a high-powered drive, to bring in a horde of members from the highways and hedges, many of whom would drop out after a year or two. On the contrary, I believe we could, by the right sort of campaign, easily double or treble our permanent membership, without going outside the group of those who have a real interest in the work of the

Association. Incidentally, the enlarged journal which I have been describing could easily be made the means of securing many new members.

Thirdly, you have doubtless sensed the materialistic conclusion toward which a part at least of my remarks have been tending. The sort of National Tax Association which I envisage must be assured of ample financial support. I have of course not presumed to set up a budget or to put my ideas into exact figures. But I am convinced that we should set our sights high and make our plans in no small penny-saving spirit. The service of which I believe the National Tax Association is capable is worth all it will cost, and finance on a generous scale may be just as easy as that which is timid and niggardly.

First of all, I am confident that a considerable increase in the current income of the Association may easily be secured. The greatly increased membership which is part of my ideal will correspondingly raise the revenue from dues. There are at least revenue possibilities in the "bigger and better" *Bulletin*. Whether the Association could ever pay its way from these sources of revenue is probably doubtful. In any event, if we are to proceed at once with any enlarged program, considerable financial aid from outside sources is immediately imperative. I have every confidence that the search for generous friends thus to come to our aid would not be fruitless. Informal overtures already made lead me to believe that some of the great funds endowed for the promotion of human knowledge and the improvement of the conditions of human life in America would lend a sympathetic ear to our appeal. My confidence in this Association and my faith in the enlarged program of service which I have outlined are such that it is inconceivable to me that the Association should have to stand still or decline merely because of lack of the sinews of war.

I have tried to lay before you my own vision of the future of the National Tax Association. There are doubtless those who may not fully agree with me. I wish it clearly understood that I have been speaking solely on my own authority. I have, it is true, been aided in the preparation of this address by a Policy Committee, composed of all the ex-presidents of the Association, and have profited by their wise counsel. But my views are my own, and none of the members of this Committee has renounced his right to express contrary opinions. All those who found it possible to be present have been invited now to address you and to give you the benefit of their consideration of these problems.

It is my sincere hope that we may have here and now a free and frank discussion of these matters. It was for this purpose that I gave you due warning, in the June *Bulletin*, and this is the purpose of the introductory remarks which I have now addressed to you.

What of the future of the National Tax Association? What is its true field of service? Should it seek to enlarge and improve its sphere of usefulness, and, if so, how? Whence may we expect to receive the necessary financial support? Are there, for example, any reasons why the Association should not solicit and receive gifts from disinterested individuals and associations, including the endowed funds? These are some of the questions upon which I trust you will be inclined to express yourselves, to the end that wise counsel may prevail and the National Tax Association continue to serve its purpose and justify the vision of its founders.

CHAIRMAN SMITH: In the paper just read, Professor Fairchild has presented many interesting problems which the Association will be or is now confronted with and must in time solve, and the Chair feels your remarks will furnish additional valuable suggestions. The discussion will be led, as stated by Professor Fairchild, by three of the ex-presidents who are attending this Association this evening, and the Chair will first recognize Mr. William Bailey.

WILLIAM BAILEY (Utah): Mr. Chairman, Ladies and Gentlemen: First I want to express my feeling of gratitude for the opportunity that I have in being here with you once more. I was not able to attend last year. This organization has come to be like a sweetheart to me, and if I don't see her once a year I am unhappy.

I have been coming quite regularly to this organization since 1913, and I have watched its growth, and the boy has grown larger than the home. He must get out. I recognized this when we were at White Sulphur Springs, at which time I had a little plan prepared, but it was too big, we thought then. But, we have still continued to grow, and, friends, I am absolutely convinced that we have reached a point where we must get out of the little sphere in which we have been traveling for a long time.

I was elated tonight in listening to the paper that has just been delivered by our President upon that point. The Association has done splendid work, and it has been received by all of us with open arms, and we have appreciated it, and there are things in it that must be continued, but it is a little thing and must be made larger. We must get out of this little valley into a greater field, and place ourselves in a position to show what we are.

I know that there is no organization in the United States, or the world, for that matter, that is yielding a greater influence in the tax field than the National Tax Association. I have noticed that there are some people who would be pleased to take a little from our name if they could, because of the field in which we are working and because of that which we have achieved. I have seen Congress wait patiently for the work of some of the National Tax Association committees, that they might take their research and their find-

ings and adopt them. I could name you several if time would permit.

There is one thing that rather struck me tonight. I believe we should get into research. We have been for years and years finding new ways of taxation, but I have not heard much about expenditures. We made an effort upon that once at White Sulphur Springs, and thought we had secured the services of Frank Lowden to look into these matters, but he got ambitious, like Caesar, but was not killed. We have reached a point in our history, friends, when we must get out of this little rut into the better and bigger place in the world that we have earned. The time has come.

I know the splendid work that has been done through our committees, and I cannot sit down without referring to the splendid work done by the committee headed by Senator Edmonds. It is a real contribution. My state is considering it. Mr. Edmonds did not tell you about us, because I am ashamed of it, but it is having its effect, and I say this for your sake, Mr. Edmonds, because I don't want you to get discouraged. You are doing a splendid work. We can branch out but we must have a broader scope on which to work. Thank you.

CHAIRMAN SMITH: We shall be glad to hear from George Vaughan.

GEORGE VAUGHAN (Arkansas): Mr. President, Ladies and Gentlemen: Tonight is the first time we have had outlined to us in clear and succinct language the possibilities of this great association.

I became associated with this organization in 1912 and have missed very few meetings since then. It was not long after I became affiliated with it that I thought I saw much greater fields of usefulness than it was occupying. Perhaps I was a little impatient that we get to that point where we could expand and do these very definite serviceable things. But, we have all learned from experience that the immature youth is not the one with which to entrust great responsibility. He must achieve manhood. Our organization has now passed just beyond the point at which a man reaches his majority in the American states. We have reached the point when we feel our powers, we feel our innate capabilities; and now there seems to be pointed out a possibility that they may be actually realized.

Now, our President has mentioned very clearly certain definite fields but has not stressed the field of research. Perhaps he is wise in reserving that for more direct agencies. Suggestions have come to me from time to time, especially in recent years, from men of ability and men of experience in research lines. It has been suggested that our organization should go more into research, that we



should devolve duties upon committees that would be carried over from year to year, a sustained effort, if you please, in a certain field. Nothing can be accomplished in just a few months' effort. There is abundant precedent for that course of procedure in the more dignified or the more sedate organizations, such as the American Bar Association and kindred associations. The Board of Commissioners have uniform laws and they have for about forty years now been working upon the problem of uniform state laws, and have from year to year carried over the accumulated experience of previous efforts, so that there has been some tangible result, slowly but surely, for example the American Adjudicature Society, and the society for the recoding or restatement of the law. All of those things are contemplated as the work of several periods of exertion.

Whether we could go directly into the matter of research is a question of policy, to be determined, but we can certainly use the influence of our Association and the moral support and sanction of movements of this sort. I think President Fairchild has struck the keynote in saying that our organization ought to be represented by an adequate medium; that the *Bulletin* as at present constituted and operated is but a suggestion, is but an atmosphere of the proclamation we can make if we establish a first-class and complete magazine or periodical. Those things require finance, and of course that is a situation which will take very careful and sober thought, to determine the method by which it may be financed. There is a difference of opinion, perhaps, as to how that should be done, but in my opinion the opportunity is here for the National Tax Association to go forward into a field of usefulness that heretofore has not been touched.

We have a distinct advantage in the nature of our organization, which has already been stressed tonight. Peculiarly, the National Tax Association with its twenty-four years of history stands on a pedestal of respect by other organizations, for the simple reason that we have not rashly committed ourselves to the fads of the passing moment, but that we have deliberately considered and held up, as it were, in the Socratic method, the problems and propositions to be considered by the intelligent citizenry of the country; and we have not tried to direct public opinion, but have tried to make it easier for public opinion to formulate itself, and in that respect the National Tax Association is ahead, in my judgment, of any organization in the sociological field. If we will pursue that policy we will be certain to gain more prestige and to do more useful service in the future.

Another characteristic noticeable in our organization, I think it can be truthfully said, is that there has been no recognition of political wire-pulling that sometimes crops out in other organiza-

tions, and those who held the responsibility of the leadership in this organization are those upon whom that responsibility has been thrust, and not those who sought aid directly or indirectly. I think that is true without an exception. That is a record to be proud of. Let us continue that record throughout our future life, and let us unite with faith in the future of this organization that it may go on from what it is now into a field of public usefulness that has never been achieved. I thank you.

CHAIRMAN SMITH: The Chair now recognizes Mark Graves of New York.

MARK GRAVES (New York): Mr. President, Ladies and Gentlemen: I don't know what I can add to what our retiring presidents, Mr. Bailey and Mr. Vaughan have so well said to you. I was immensely pleased with Professor Fairchild's paper. It summarized so much better than I can possibly do it, the thoughts which have been running in my mind about the National Tax Association, that it was a very genuine and real pleasure for me to listen to it.

From time to time, you know, it is well for us as individuals to take inventory of ourselves and of our positions. By the same token it is well for an organization like the National Tax Association from time to time to inventory its position.

I agree with all that Professor Fairchild has said about the accomplishments of this Association. It has done much. It has yielded a powerful influence over tax thought throughout this country, and I venture to say beyond the borders of our own country. But, the question which now confronts us is, are we doing all that we can or should do? Frankly I have felt for the past few years that we were not. I believe that with all the prestige, with all the traditions and all the influence which this organization has, it carries with it responsibilities to exercise that influence and those traditions in the interest of correct tax thought throughout this and perhaps other countries.

Doctor Fairchild has outlined certain specific things which he believes might well be done. I agree 100 per cent with everything that he said. Many of you perhaps have not had the experiences of some of the rest of us. I have been chairman of a committee of the National Tax Association. I have served on several others. I was asked on one occasion to accept the chairmanship of a committee which had a rather broad job. I said frankly to the president, who wished to appoint me chairman of that committee, "I would love to undertake the work, it is a worthwhile job, I would like to have my name identified with it, but I cannot and won't do it because the National Tax Association is not equipped to give me the tools and the instruments to go out and make a proper investigation and a proper report, and I won't undertake any assignment

unless there is some chance of doing a good job." That is the predicament which we are in. That is the difficulty which has confronted our retiring President in his failure to appoint certain committees. He could not find capable men who would undertake those assignments under existing conditions. They could not be accomplished with volunteer effort, the effort of men who would not only have to give their time but pay their own expenses to attend committee meetings. We are all of us willing to give our time and pay our own expenses, but on top of that it would have been necessary to hire a lot of work done. As I said, I agree with all that Doctor Fairchild has said with reference to the broader sphere of activity in which he conceives this association should operate.

Moreover, I will add a word of warning, if you please, or of caution. It is not a threat, or anything of the sort, because I am identified with the National Tax Association, and will be as long as I remain in tax work; but in my judgment, unless this Association broadens out, unless it does more than it has been doing, and unless it accomplishes more than it has been accomplishing, some other association will supersede us, will perhaps obtain the ascendancy. We have sat here this week and we have listened to criticisms of government, because it does not keep abreast of the times, because we are now following in government the same lines and using the same governmental machinery that we did fifty or one hundred years ago.

We cannot expect to continue indefinitely with precisely the same organization, or the same ideas or the same aspirations, or the same methods of finance that we started with twenty-four years ago. That is the very thing that people are criticizing our government officials for doing. If Commissioner Merrill and I were running the tax department of New York State the way it was run twenty-four years ago, many of my friends from New York here would be making life most unpleasant for us. They would say, "Why don't you keep abreast of the times?" So it is with the National Tax Association. We have to keep in step with the times.

Twenty-four years ago the tax problems of this country were different. The amount of revenue raised by taxation was perhaps one-fifth or one-sixth that of today. Tax problems are multiplying faster than they are being solved in this country, and we need an organization not such as was needed twenty-four years ago but we now need a 1930 model.

The two men who immediately preceded me in speaking did not speak quite as directly concerning finance as perhaps I shall. We do not need money to hire committee members to do work; we do not particularly need money ordinarily to pay the expenses of committee men to attend committee meetings; we do not need money

to pay the salary of a president or the average official of this organization; but we do need money to edit and publish a suitable bulletin, one which will be a genuine and real tax organ, which will be the kind of a magazine that will contain all the worthwhile tax information in this country. We do need money from time to time to pay for such research work as may be necessary in connection with the work of our committees. And I for one believe that we may with propriety, and without attaching any stigma to our organization or to ourselves or without any suspicion upon the work which our organization may do, properly appeal to any one of several foundations, established by wealthy men of various names, for the sole purpose of promoting the general welfare of the American people, and ask them for endowments or allotments of money for a period of years, with which to carry on this work. That is a thing which it is really necessary for us to consider and decide.

If we do that it is a departure from all of the past customs, and I am volunteering myself, not at the request of any one, to bring quite pointedly to the attention of those here assembled that particular fact. The question, as I see it, which we must consider and decide as an association is whether for the next twenty-four years or the immediate future we shall continue as we have in the past to try to do everything by volunteer effort. Personally I am against it. I am in favor of broadening out and trying to do a lot more. I believe that it is eminently worth while for us to meet here and get acquainted, the tax administrators and the professors, both of those groups, with the representatives of taxpayers. That is worth while. It would be worth while for us to do that if we never did anything else. But, I think there is so much more that we can do, and that we owe the duty because of our position to go ahead and do it. Therefore, I for one am in favor of the program which has so eloquently been outlined by our retiring President, and I favor the authorization of the officers or the executive committee, or a committee to be appointed in some manner, to go ahead and see what can be done by way of arranging finances, and that a report may be made to us a year from now and submitted for our approval.

I hope I have spoken directly enough and pointedly enough so that you may have all gotten my point. Do not misunderstand me; it is because of no selfish interest or desire, it is because I am intensely interested in seeing the National Tax Association maintain in the next twenty-four years the same powerful influence on tax thought which it has exercised in the past twenty-four.

PHILIP ZOERCHER: Is that a motion you make there? If it is, I will second the motion.

CHAIRMAN SMITH: We will now be glad to hear from anybody else.

FRANKLIN S. EDMONDS (Pennsylvania): I think we have all heard the statements of Doctor Fairchild, not only with very great approval, but with keen appreciation of the vigor with which he has stated the ideal. The ex-presidents have given the matter their complete approval, and I think that is the sentiment of this meeting, and therefore, Mr. Chairman, I would like to offer these resolutions, which, as they do not express an opinion upon any subject relating to taxation, may, it seems to me, be appropriately considered tonight, subject to your ruling, sir.

RESOLVED, That this conference has learned with great interest of the proposed extension of the work of the National Tax Association, including increase of its membership, expansion of its public activities and extension of the work of its special committees, and hereby expresses emphatic approval of such program of expansion.

RESOLVED FURTHER, That it is the sense of this conference that it is appropriate and desirable that such additional funds as may be required for such program of expansion be secured through contributions from one or more of the endowed foundations or from other disinterested sources.

Mr. Chairman, I offer this resolution and move its adoption.

PHILIP ZOERCHER: I second that motion.

P. R. PORTER (Missouri): May I speak upon the resolution? Mr. Chairman and Gentlemen, although I have been a member of this organization for six or seven years, this is my first appearance upon the floor, and I trust that you will treat me as a first offender.

The resolution introduced by Senator Edmonds I believe should have some discussion at this time. He uses the word "expansion." That is a rather general term; and I wish to say just a word and to direct my remarks to what I believe should be the expansion of this association. I have attended these meetings, I have listened with much interest, I have observed that there was a group for the bankers, that there was a group for the sales tax, and excise tax, and there was a group for the income tax and inheritance tax, but I observed no group for the taxpayer on real estate and particularly the home.

Now, I know that this organization has done good work, and I understand that about sixty per cent of it constitutes a membership from the tax commissions and from the learned schools, but I did not understand until Mr. Graves, I believe, made the remark, that those two bodies were the representatives of the taxpayers. I had always supposed that the taxpayer was not exactly directly repre-

sented by the tax men or the college professors. I happen to speak, at least nominally, in behalf of the taxpayer, because I am the counsel for the Taxpayers' League of Kansas City, the people who at least think that they pay the bill. I would suggest, Mr. Chairman, that this organization should be made more democratic, with a very small "d", that it should broaden its functions to extend not only to real estate assessments, but particularly to what I believe is the greatest evil today in the field of taxation, namely special assessments.

I have made some study of that subject. I tried a year or two back to find out what was done in other cities upon the question of the financing of state-wide improvements by special benefit assessments or by bonds. I sent questionnaires to thirty or forty cities, and I got replies which were very unsatisfactory.

This organization, Mr. Chairman, could do a great work if it could find out, without propaganda, as of course it would, whether the people of the large cities of this country are satisfied with what is being done towards the financing of state-wide improvements by a fictitious benefit district, resulting in sometimes almost confiscation of property. To my mind that is a greater evil that is attaching to more taxpayers numerically than any subject that has been discussed at this meeting. The learned paper of Dean Waterman, discussing the Baldwin case, was of great interest to any lawyer or student of taxation, but it touched as a rule only the large taxpayers, and more particularly those who perhaps have securities in states in which they do not reside. But, you will agree with me that numerically the man who suffers the greatest burden in taxation today is the man who owns real estate, and particularly his home, and his problem is national; it is not sectional; it is as wide as this country.

We are confronted right now in this state with a constitutional amendment which must be voted upon in November, amending our state constitution to provide for what is known as excess condemnation. I took occasion today to look back in the bulletins of this organization covering many years and I did find that in *Bulletin*, Vol. V there are some remarks about excess condemnation, as applied in Massachusetts and in New York, and no doubt the gentlemen from Massachusetts and New York could tell us much, in Missouri, about what we have to vote on in November. But, not a word was said here upon that very pertinent subject.

Mr. Chairman, I believe I have made my meaning clear, that we should not simply discuss legal subjects, not simply principles of law, but we should discuss the evils of the administration of law. By that, Mr. Chairman, I do not mean any evil acts on the part of tax commissioners; I do not mean any acts of an evil nature on the part of any state official, but I do mean a misapplication of the

principles of law by local officials in the different cities. What is done in New York by special assessment? What is done in California? I know what is done in Missouri, but I would like to know what is done in other states. Thank you.

CHAIRMAN SMITH: This resolution will be referred to the Resolutions Committee, so if we are going to take any action on it they will have to absent themselves and take this under consideration.

CHARLES J. TOBIN: May I ask a question, as to whether this is a resolution before the conference or whether it is a resolution before the Association.

CHAIRMAN SMITH: It is a resolution before the conference. We will go into the National Tax Association meeting immediately after we finish this conference.

R. WAYNE NEWTON (Michigan): Mr. Chairman, I was interested in the last speaker's statement, because it raised questions which I have heard raised elsewhere more than in meetings of the National Tax Association. I have attended the meetings for several years now. I can remember hearing it said that the small taxpayer and the farmer could not be heard from the floor of the National Tax Association. I think that the last two years have given a most striking illustration of the fact that the Association is ready to hear from any interest that has something to present. During the last two years we have had conferences on the subject of farm taxation. You have in the audience here this evening a large number of men who are here because of their interest either in research or in legislative work or in other lines, in the protection of real estate both in the city and in the country, and in the protection of the small property owner. With that in mind and with regard to the voluminous proceedings of conferences and discussions of local assessment problems and special assessment problems, it seems to me that we are working along the lines that have been suggested. I have a little sympathy for the feeling which one may have upon first approaching this organization, because it covers such a wide field that it is impossible to talk of everything at one time. Yet it does seem to me that we are merely pointing out, when we bring up those points, the need for more of the kind of program that Professor Fairchild has outlined, because of the greater possibility of conducting research and keeping our Association in advance along these many lines, which cannot be done altogether through the discussion method.

MILBANK JOHNSON (California): As representing probably the largest group of organized taxpayers that we have in the United States, I want to say first to Mr. Porter that he need not spend any money to come to California to find out what we think of special

assessments, that with the exception of a few contractors who have grown fat on the business, we are unanimously opposed to them.

I want to say about this question of expansion, and going ahead, I think it is one of the most delightful moments that I have ever experienced in these conferences, when I find that the governing body is willing and anxious to go ahead. I think that this conference and these men who are members of it—most of us are working for the benefit of our own states and our own people—owe it to the people to provide themselves with the necessary wherewithal to do good work.

I think that the taxpayers of the United States will welcome such a movement on the part of this body.

I want to say to you, gentlemen, that as taxpayers we are tired of paying for hot air; we are tired of running our government on old, antiquated, worn-out lines. If a great body of this kind, representing the tax brains, we will say, of the whole United States, could so prepare itself through this expansion idea, for giving itself the necessary wherewithal to bring order out of this chaos, in the multiplicity of states and the multiplicity of counties, what a wonderful thing it would be. And after all is said and done, it is going to require a great deal to do this and much must be obtained.

PHILIP ZOERCHER (Indiana): During the last session of the legislature in Indiana, some matters came up about some new methods of raising revenue, and the governor of our state indicated that he would like to see me, and I said to the governor, "If you will have your legislative reference bureau, or if you want our board to make a report to you on any kind of a tax, sales tax, excise tax or any of the income taxes, we have access to the reports that have been published by the National Tax Association," I had with me a copy of the proceedings that had been recently published, and ran through that and showed it to him. I told him that it did not present one side only, that it covered both sides on every form of taxation. That was new to him, and of course he was very glad to get the information.

I sometimes think that we do not make use of the information that the Association has already presented by going back and reading some of those reports and searching the records.

I believe the suggestions made by President Fairchild are very valuable, and I think the suggestion made by Mr. Graves, that there ought to be a committee appointed to report at the next conference, is the proper thing. That is my suggestion.

CHAIRMAN SMITH: Any further discussion on the resolution?

(No response)



CHAIRMAN SMITH: Is there any further discussion on Professor Fairchild's paper?

(No response)

CHAIRMAN SMITH: If not, before the conference suspends its work to take up the affairs of the National Tax Association, I am going to ask Chairman Long, of the resolutions committee, if he is ready to make a report of the resolutions committee.

HENRY F. LONG: Yes, Mr. Chairman, your committee has labored long and faithfully. We beg leave to present these resolutions for the consideration of your distinguished gathering:

RESOLVED, That the Report of the Committee on Motor Vehicle Transportation of the National Tax Association presented to this conference be received, and that the Executive Committee of the National Tax Association continue said committee for further consideration of this most important subject, which has been so ably handled by this committee.

CHAIRMAN SMITH: I thought we might take them all as a whole.

Mr. LONG (continuing):

RESOLVED, That the Committee on Uniformity and Reciprocity in state tax legislation, of the National Tax Association, be commended for the splendid report which said committee has submitted to this conference, and that it is the sense of this conference that the Executive Committee of the National Tax Association should continue said committee for further study and investigation in this field.

I also offer, Mr. Chairman, the following resolution:

RESOLVED, That this conference has learned with great interest of the proposed expansion of the work of the National Tax Association, including increase of its membership, expansion of its publication activities, and extension of the work of its special committees, and hereby expresses emphatic approval of such program of expansion.

RESOLVED, FURTHER, That it is the sense of this conference that it is appropriate and desirable that such additional funds as may be required for such program of expansion be secured through contributions from one or more of the endowed foundations or from other disinterested sources.

I offer that, Mr. Chairman, and make the still further motion that it be adopted without being put over to another meeting.

We have one other resolution, and this we take a great deal of pride in, because it was drawn a little apart from the usual kind of resolution of this nature, and the author of it is the poet-laureate

of the Providence River, E. P. Tobie. This resolution, Mr. Chairman, reads as follows:

Recognizing with a profound sense of appreciation the whole-hearted and generous devotion of the various organizations and agencies which made possible and brought to successful fruition this twenty-third conference on taxation under the auspices of the National Tax Association; the self-sacrificing and studied efforts of those individual members whose valued and signal contributions here to current taxation bibliography have marked its proceedings with a degree of distinction and influence which only time can appraise at its full and true value; and the unstinted cooperation and hospitable cordiality extended by the official, civic and social life of this community and environs which have not only effectually smoothed the pathway for the expeditious dispatch of business but lightened it with a genuine welcome manifested both by word of mouth and by ample provision for the pleasure, entertainment, comfort and convenience of its members and their families; it is therefore by this conference

RESOLVED, That so far as this memorial can accomplish a purpose so inadequately served, the same be and is hereby tendered, the symbol of a gratitude as sincerely felt as it is unworthily expressed, on behalf of those whose good fortune it has been to participate in this conference and in the enjoyment of its patronage, and whose sojourn as the favorite guests of such superlative hosts and hostesses has been all too brief; and be it further

RESOLVED, That this sentiment be duly recorded as a part of the proceedings of this conference.

CHAIRMAN SMITH: Isn't it necessary to suspend the rules to take action on this?

MR. LONG: I think you already have a motion that the rule be suspended.

CHAIRMAN SMITH: The Chair will entertain a motion to have the rule suspended.

MR. LONG: I move that the rules be suspended.

(Motion duly seconded)

(Ayes and noes)

CHAIRMAN SMITH: What is the pleasure of the conference? Do you wish to adopt the committee's report as a whole or take up each one of these at a time?

MR. ZOERCHER: Take it as a whole.

CHAIRMAN SMITH: I would like to have a motion to that effect.

(Adoption of resolutions moved)

(Motion duly seconded)

(Ayes and noes)

CHAIRMAN SMITH: Resolutions adopted. Now, the hour is growing late, and we shall have to bring the conference affairs to a close, so that the National Tax Association may convene. If there is nothing further to come before the conference I will release the chair to Professor Fairchild.

CHAIRMAN FAIRCHILD: I think the conference will be interested to hear that the total enrollment to date, and I presume the final figure, is 456, and that this number represents 45 states and provinces. This is not the largest attendance at any conference, but it is the largest number of states and provinces ever represented at a conference of this Association.

Is there any further business to come before the conference?

(No response)

(Motion to adjourn *sine die*)

(Motion duly seconded)

(Ayes and noes)

CHAIRMAN FAIRCHILD: It is a vote. The conference stands adjourned, and the annual meeting of the National Tax Association is now convened.

## PROCEEDINGS OF THE ANNUAL MEETING OF THE NATIONAL TAX ASSOCIATION

THURSDAY, OCTOBER 23, 1930

PRESIDENT FAIRCHILD: The Chair announces that according to the Articles of Incorporation and By-Laws of the Corporation, there is evidently a quorum present. I will call first for the report of the treasurer, Mr. Holcomb.

A. E. HOLCOMB (New York): Mr. President and Gentlemen, at this hour, fortunately, the finances of the Association are in such shape that the report will take but a very short time.

The receipts from dues were \$6053.92, contributions \$1690.00, sales of proceedings, the digest and bulletins \$915.72; investment income \$1,748.60; making total receipts for year \$10,408.00.

Expenses: Publication of volume \$3080.00; of the bulletin \$1776.00; miscellaneous \$165.00; total printing expenses \$5021.00; expenses of the 1929 conference \$693.00; secretary's office \$1500.00; treasurer's office \$290.25; expenses of incorporating the Association \$41.90 and \$25.25. Total expenses \$7547.33, showing a balance in black of \$2860.91.

There are 1370 members, of which 1227 have paid their dues; 143 are unpaid to date.

We distributed about 1463 copies of the bulletin; and sold approximately 100 copies.

If there are any questions to be asked I will be glad to answer any question I can, but that is the state of the finances.

CHARLES J. TOBIN: I move the treasurer's report be received with thanks.

(Motion duly seconded)

PRESIDENT FAIRCHILD: Moved and seconded that the treasurer's report be received with thanks. Before taking our first vote, I should perhaps remind you that this is a meeting of the National Tax Association, that those eligible to vote are the members of this Association. That has nothing to do with whether they are delegates to the conference or not. It is also suggested that only members who have paid their dues are eligible. I think it would be well, Mr. Tobin, if you would include in your motion, approval of these transactions.

MR. TOBIN: I amend the motion to that effect.

PRESIDENT FAIRCHILD: Is that accepted by the second?

(Amendment accepted)

PRESIDENT FAIRCHILD: It is moved this report be received with thanks, and the transactions as reported approved. Any discussion?

(No response)

(Ayes and noes)

PRESIDENT FAIRCHILD: It is a vote. It is not customary to have a report from the secretary or from the president, so that the officers' reports are covered by that of the treasurer.

DELEGATE: Mr. President, will there be a report of the investments of the society by the treasurer?

SECRETARY HOLCOMB: There are about thirty thousand dollars, approximately. Is that adequate?

DELEGATE: In the absence of any detailed report, of course that is quite adequate.

PRESIDENT FAIRCHILD: It is not usual to take the time to read the list of investments. Of course the treasurer has the record.

DELEGATE: I was only interested in the total.

SECRETARY HOLCOMB: I have it here: investments cost, \$28,834.35; market value on October 11th, 1930, \$32,968.00.

(Applause)

PRESIDENT FAIRCHILD: We have not heard of any business depression in this Association. Is it desired to take any action with respect to the suggestions for expansion of the Association?

JENS P. JENSEN: I have the following resolution to read:

WHEREAS, It is felt that the time has come to expand the work of the Association, including increase of its membership, expansion of its publication activities and extension of the work of its special committees,

BE IT VOTED, That the president be authorized and directed to appoint a committee, consisting of seven members, of whom at least five shall be ex-presidents of the Association, to formulate plans for such expansion, and that such committee is hereby authorized to solicit and receive, on behalf of the Association, funds from one or more of the endowed foundations or from other disinterested sources.

MR. LONG: Second the motion.

PRESIDENT FAIRCHILD: It is seconded.. Will you discuss it? It is obviously of the same purport as the resolution just adopted by the conference.

FRED C. COOK (New York): Just one question. It says at least five ex-presidents. Does that mean that all must be ex-presidents or shall there be some others than ex-presidents represented on that committee?

PRESIDENT FAIRCHILD: I interpret the resolution as read to leave elasticity with reference to two members. The President might conceivably appoint seven ex-presidents, or six or five. In the latter event the remaining members would not be ex-presidents of the Association.

MR. COOK: It does mean then that they may all be ex-presidents.

PRESIDENT FAIRCHILD: If the president so desired, they could all be ex-presidents.

MR. COOK: The question of elasticity is what I had in mind. It seems to me it would perhaps not be as elastic that way as it might be if there were some others than ex-presidents represented on the committee. I think it would be well to have perhaps a representative of the schools and universities, outside of ex-presidents, perhaps representatives of taxpayers or representatives of the commissions, not necessarily ex-presidents of the Association, but representing those interests. I believe that is better for elasticity, in every shape or way. I would like to suggest that.

MILBANK JOHNSON: Is it not a fact that the ex-presidents will be of those groups that you have mentioned?

MR. COOK: Perhaps. I believe that if the Association is going to do its best work, the committee will not be hurt one particle by having a little, if you please, young blood in it.

MR. JENSEN: These men are ex-presidents but some of them are still young, and I believe it is flexible enough and representative enough as it stands. I believe every interest can be represented with the provision for some outside members other than the ex-presidents. As near as I can see, it is the most fortunate combination that we could get, because we get the experience and the representation of the younger blood, both in the ex-presidents and possibly in the outsiders.

PRESIDENT FAIRCHILD: Any other discussion?

MR. BRINDLEY: Question.

PRESIDENT FAIRCHILD: You have heard the question, are you ready to vote?

(Call for question)

(Ayes and noes)

PRESIDENT FAIRCHILD: It is a vote. We shall proceed to the election of officers.

THORNTON COOKE: Mr. President, would this be a good time to finish the job on the trophies that I began last night?

PRESIDENT FAIRCHILD: I think we had better postpone that just a moment. Is the chairman of the nominating committee ready to report? The Chair recognizes Mr. George Vaughan.

GEORGE VAUGHAN: In the absence of the chairman of the committee, Mr. Bailey, I, as vice-chairman, have the honor to submit the following report of the committee on nominations. Reading in reverse order, we nominate as honorary members of the Executive Committee to serve for one year, J. T. White, controller of revenue of Ontario, and E. W. Watts, of the Manitoba Tax Commission.

The following three as members of the executive committee for the class whose terms will expire in 1933:

Theodore S. Cady, of the Fidelity National Bank and Trust Company, of Kansas City, Missouri.

Edgar C. Hirst, state tax commissioner of New Hampshire.

George Spalding, Mountain States Telephone and Telegraph Company, Denver.

To fill vacancy existing in the class for members of the executive committee whose terms expire in 1931:

R. C. Norman, state tax commissioner of Georgia, to fill the vacancy caused by Frank S. Hall, Tennessee, who is not with us any longer.

As treasurer, Alfred E. Holcomb of New York.

As secretary, Walter G. Query, chairman of the South Carolina Tax Commission.

As president, Clarence Smith, member of the Kansas Tax Commission.

As vice-president, Robert M. Haig, of Columbia University, New York.

Mr. President, I move the adoption of this report.

(Motion duly seconded)

PRESIDENT FAIRCHILD: Are there other nominations?

C. L. TURNER (Pennsylvania): I move the nominations be closed.

(Motion duly seconded)

PRESIDENT FAIRCHILD: Moved and seconded that the nominations be closed.

(Ayes and noes)

PRESIDENT FAIRCHILD: It is a vote.

MR. TURNER: I move that the chairman cast a single ballot for these nominations and declare them elected.

PRESIDENT FAIRCHILD: It is moved and seconded that the chairman cast a single ballot for these names and declare them elected.

(Ayes and noes)

PRESIDENT FAIRCHILD: It is a vote. The chair hereby casts the ballot for these men as nominated.

The chair will appoint Commissioner Long of Massachusetts a committee of one to escort the president-elect to the platform.

HENRY F. LONG: Mr. Chairman, I will make a diligent search for him. You will recall last year you requested me to find him when he was elected vice-president, but he had the misfortune to fall down a bank, out in Wyoming, hunting for flying fish, and we could not get him. I will see if I cannot locate him somewhere.

(Henry F. Long escorts the president-elect, Clarence Smith, to the platform.)

MR. LONG: I have very great pleasure in introducing the president-elect, Clarence Smith, a very notable fisherman, a very pleasant man, and a very intelligent and efficient tax commissioner.

PRESIDENT FAIRCHILD: Those of you who were present at the meeting at Saranac last year will remember the incident to which Henry Long has just called your attention. When, as president-elect, I instructed a committee to escort the vice-president-elect to the chair, I was informed that he had suffered a misfortune, resulting in a broken leg, and was not in attendance. That unhappy news was the climax to a series of events of that general character which marked as most peculiar the Saranac meeting. You will recall that the president, Mark Graves, was going about with a broken arm in a sling, that the secretary was hobbling about with crutches on account of some obscure injury to his foot, and Mr. Holcomb was suffering from some dread disease; I forget precisely its nature at the present moment.

Most of the speakers were conducted to the platform in wheel chairs and on stretchers, and on assuming office myself, I did so with the utmost fear and trembling. Immediately upon my return I consulted my insurance agent and took out heavy health and accident insurance.

It is a great pleasure to be able to inform the new president that



the past year, so far as I am aware, brought forth few if any casualties of this sort. Apparently accepting office in this Association does not carry the hazard which seemed to be imminent a year ago. No undercurrent of dread for his physical safety, therefore, mars the pleasure with which I now welcome Clarence Smith to the platform.

I can assure Mr. Smith that the office which he now assumes is one of honor and dignity. I can further assure him that it is no sinecure. If, during these past few days, I have been observed to rush past my friends with an abstracted look and a glassy stare, I trust you will judge me with charity and find my excuse in the demands of official duties which have dogged my footsteps from early morn till dewy eve—and then some. But I know that the service of this Association as its president is an experience which any man might covet, and I can, therefore, heartily and sincerely congratulate Mr. Smith. I can with equal sincerity congratulate you, members of the National Tax Association, that your destinies for the coming year are now placed in the hands of one who, by knowledge and experience, by character and personality, is so well fitted to serve you. So, with feelings of pleasure and confidence—and personal friendship—I turn over the duties of the presidency to Clarence Smith, and suggest that he now rise and with a few graceful words accept the honor conferred upon him.

(Applause)

PRESIDENT CLARENCE SMITH: Mr. President, Ladies and Gentlemen of the conference: I think before I make any remarks I will state that I have made persistent efforts with the insurance companies this year to give me some insurance, but they say I am a poor risk, and they simply will not sell me any more insurance.

A long time ago, I think it was in about 1915 or 1916, Mr. Samuel T. Howe, now deceased, a lovable character as a lot of you folks know, who was chairman of the state tax commission of Kansas for many years, upon his return from a conference, called me into his office one morning and said: "Clarence, do you know I was elected president of the National Tax Association, and I would rather have that office than be governor of the state of Kansas." I did not fully realize the importance of that statement at the time, but I realize it now. Words are inadequate to express my appreciation for the honor conferred upon me.

I have been very much impressed with the good will and co-operation evidenced throughout the entire conference, and I trust this spirit will continue during my incumbency. It will be my endeavor in assuming the duties of this office to follow and maintain the high standard of leadership set by my predecessor, Fred R. Fairchild.

(Applause)

PRESIDENT SMITH: You have been good to me, friends, and I want to thank you again.

RETIRING PRESIDENT FAIRCHILD: There are present tonight, I believe, representatives of certain cities which crave the privilege of extending invitations of hospitality to us for our next year's conference, and perhaps in other future years. The Chair will recognize such as who may desire to present the claims of their favorite towns, suggesting that a time limit of three minutes be in force.

MILBANK JOHNSON (California): I do not need three minutes. You all know about Los Angeles. I want to invite this conference to Los Angeles in 1932. If you consider that we will consult the wishes of your executive committee to make such arrangements as you require.

RETIRING PRESIDENT FAIRCHILD: The Chair would remind the assembled delegates that in a few moments we are to have a further distribution of golf prizes, so that if you leave, you know you are missing that event.

C. S. MALTBY (Ohio): Last year, on behalf of Cleveland, I extended an invitation of that city to the National Tax Association to hold its conference in Cleveland in 1930 or 1931, whichever the conference chose. I have been asked again to extend that same invitation. The invitation has gone out, I understand, officially, supported by the Cleveland Chamber of Commerce, and from the Mayor of the city.

I suggest that those in charge of the affairs of the conference come to Cleveland and the conference will be very welcome. If you can see your way clear to come to Cleveland we will be glad to have you. I took the floor at this time because I am trying to catch an eleven o'clock train, otherwise I should have waited.

GEORGE LORD (Michigan): I want to extend again an invitation to the Association to hold its next conference in the city of Detroit. I think two years ago I stated I had the pleasure and honor of extending the first invitation and told the Association to hold its next conference in the city of Detroit, way back in 1910. That year I think we had the conference in the city of Milwaukee. Since that time the conferences have been held in all the principal cities in the West, Middle West, in the East and in the South. So far the Association has neglected to favor Detroit with its presence. Now, I want to say to you briefly that there never was a time in the history of the state of Michigan when we so sorely needed a conference of the National Tax Association. Taxes in that state, in common with the increase in taxes all over the United States, have been going up by leaps and bounds, and at the present time we

have a special tax commission trying to find some way of relieving the heavy burden of taxation now levied upon the people of our state. You have, Mr. Chairman and Gentlemen, a standing invitation from the Governor of the state, from the Mayor and Common Council of the city of Detroit, from the convention and tourists' bureau of that city, from the Michigan Manufacturers' Association, from the board of the city of Detroit, and several other civic organizations of that city and state.

I don't know whether you have ever visited Detroit, but those of you who have had the pleasure will agree with me that we have everything that you have in any other city in the United States, and then some; and if you come I will promise to give you a better ride than you would have in Amos and Andy's taxicab.

CHAIRMAN FAIRCHILD: The Chair would like to announce that it is rather important that there be a meeting of the executive committee of the National Tax Association immediately after adjournment of this session, and every member of the executive committee who is present will kindly take note that we will have to have everybody who is here, I think, in order to have a quorum. Perhaps if those members here will stand up I can count and be sure we have a quorum. All right.

R. C. NORMAN (Georgia): Mr. President, an old darky down in Atlanta joined the Episcopal Church. After attending a few services he ceased in his attendance. An official board called upon him and asked him if he did not like the Episcopal Church. He said, "Yes, sah, I like it, but it takes up too much time reading the minutes of the last meeting."

I am not going to take more than three minutes to read the last minutes, or with reference to an invitation to come to Atlanta. We invited you last year, and we are back here now to renew that invitation. We have filed with your secretary the cordial invitation of the Governor of Georgia, from the Governor-elect who will take office next June, from the Mayor of Atlanta, from the chamber of commerce, from the convention bureau and from the civic bodies of Atlanta.

Atlanta is a railroad center. It is easily reached. We have seven different systems and fifteen main lines of railroad passing through Atlanta. It is eighteen hours from Chicago, twenty-two hours from New York. If you want to go on rubber, you can go down from the western states all the way through to Florida, and never strike any mud. The same is true from the west. There is a little strip on the east which will be completed within the next two months. Now, from east and west you can come to Atlanta in your cars, if you like. We have ample hotel facilities. The Atlanta Biltmore is not surpassed by any hotel in the south, or hardly by any in the

country. It can house every member of this Association. It is splendidly conducted. It has ample committee rooms and assembly rooms, and we have half a dozen or more other modern hotels in Atlanta. But, above everything else I want to invite you there because we need you down in the south. The south is breaking away from its conservatism, and Atlanta is in the heart of the southeast. In the southeast you will find the largest group of states that still retains the old uniform clause in their state constitutions, and you also find the largest single group of income-tax states. Now, my good friend Professor Martin of Kentucky referred in his report to Georgia as a poor state. We haven't as much wealth down there as we would like to have; I know that is true as tax commissioner of Georgia; but we have some wealth, sufficient at least to entertain you, and we have some other things besides wealth!

I believe Doctor Fairchild will bear testimony to the fact that Georgia has a football team; we also have Bobby Jones, and Young Stribling, and a great many other things. If you will come we cannot exceed Kansas City in the hospitality that it has extended us, but we will show you some old southern hospitality.

JOHN S. EDWARDS (Ohio): Mr. Chairman, and delegates of the conference: It is with pleasure that I bring to you again the formal invitation of the Governor of Ohio, the Mayor of the city of Columbus, the chamber of commerce and the civic organizations and civic clubs, to come to that city, where this organization found its birth, in the year 1906. You have found neither the time nor the occasion or the opportunity of coming back to Columbus since this organization came into being. I think it is fitting and proper at this time that this great organization recognize the fact that the great Buckeye State again stepped out of its conservatism last fall and got rid of that old uniform provision in its constitution, and it is quite probable that our general assembly will be in the very act of writing a new tax structure for that state.

I shall not attempt to enumerate the many advantages of that wonderful capital city. Many of you have been there. It is the largest capital city of the land. It is so situated that you can approach it from every angle, either by railroad or by automobile. It has wonderful playgrounds and recreation facilities, and we must mix a little play along with the work of the day. The golf courses and recreational grounds are within thirty minutes' ride of the center of the city. Hotel facilities cannot be excelled anywhere in the land. I would be very modest in saying that all that you demand, all that you desire can be furnished in the wonderful old Buckeye State.

I think it will have been twenty-five years since the organization came into being, though perhaps you did skip one year, holding a

meeting, but it is a quarter of a century and we bid you welcome. We want you to come, and we will give you perhaps no finer hospitality than you have had here, but we will do our very best to measure up to the standards that have been set by the other cities. Will you come?

A. J. MAXWELL (North Carolina): I wish to second the motion made by my friend from Georgia that the Association meet in Atlanta next year. It seems to me it would be entirely appropriate for the conference in 1931 to come to the South. Atlanta has the facilities for entertainment of this conference, even if it grows substantially within the next year, and every one here who has attended a national convention of this character in Atlanta knows the quality of its entertainment.

S. E. LELAND (Illinois): By virtue of authority of the Governor of Illinois, by virtue of the great city of Chicago with four hundred and fifteen governments operating within its city limits, by virtue of the six hundred governmental units in and around the metropolitan area of Chicago, and the sixteen thousand separate governments within the state of Illinois, they have invested authority in me to welcome you some day to Chicago. We haven't southern hospitality, we haven't these insuperable hotel facilities that they have in the south, that you heard of; we haven't the buckeyes that they have in Ohio—all of our buckeyes being in office; we haven't as many uniform rules and constitutions as they have in the south, but we do have the same old clause lodged in there. We have, by reason of all these things I have mentioned, more in Chicago than anywhere else, and I invite you to come to that city and see the museum for yourself. You would be as enthusiastic about the things we have as you would be in the south. Come any time you can.

W. S. BOOTON (Tennessee): Mr. President, I just want to say that perhaps these bankers would love to come and pay their respects to the grave of Andrew Jackson, the only man that I ever heard of that regulated bankers and bank taxation. You should visit the grave of Andrew Jackson.

R. E. LOGSDON (Tennessee): Mr. President and Gentlemen: I wish to invite you to Memphis. I bring the official invitations of the Governor and the state tax commission and the invitation of the chamber of commerce. We have filed a lot of invitations with your executive committee in the past five years, having invited the organization five times successively, and we feel that next year the conference is naturally due in the South. There is a point I hope you will consider which has not been mentioned. If this is an educational organization, and as the conference is due in the South

next year, and as the territory surrounding Memphis has never had the educational benefits of your association, and as Memphis is undeniably the central city of the South, of sufficient size to take care of your conference, and because next year is going to be somewhat like this one is in relation to financial depression, and because not over ten per cent of your members are wealthy enough to travel any place that they please any time of the year that they please, and because ninety per cent of them may go to a city which is sufficiently central to reduce the cost of travel, we believe that you should come to Memphis next year. So, on behalf of these agencies I have mentioned, and also in behalf of the Memphis Hospital Association, in view of what the president said a while ago, I wish to invite you to Memphis in 1931. Thank you very much.

M. A. MURPHY (Arizona): This is my first attendance at one of these National Tax Association meetings. Coming, as you all know, from the baby state of the Union, and from the city of Phoenix, I take pleasure in inviting the convention to be held there in 1931. It may be a little presumptuous on my part at this time to invite this great body to Phoenix, one of the greatest small cities in the United States. I am not going to try at this time to tell you about it, but many of you, or in fact most of you, know about it. I want to say this in reference to the statement about being presumptuous in inviting you to Phoenix for your meeting of 1932: by that time we expect to be annexed to Los Angeles.

I extend to you an invitation to meet in Phoenix in 1932.

PHILIP ZOERCHER (Indiana): Mr. Chairman, Indiana was the first state in the Union that created a state board of tax commissioners. I think it is the first state that has successfully adopted the plan of controlling public expenditures. Indianapolis, the capital of the Hoosier State, is known as the cross-roads of America.

I extend on behalf of the Governor of the state and the Mayor of the city and the chamber of commerce and all the organizations in the city of Indianapolis a welcome to come there in 1931, 1932 or 1933, preferably 1931. We have sort of a bi-partisan arrangement there; we have a republican Governor and a democratic Mayor; and I want to tell you that we would like to have you come.

BLAINE F. MOORE (Washington, D. C.): After listening to all these speeches I hope this assembly will have a happy place to meet next year, but I have another idea in mind.

As you all know, in 1932 there will be a national celebration of the birth of George Washington. That celebration will center in the city of Washington. It is not exactly a Washington affair. The Federal Government has already authorized an appropriation for the occasion, and every state in the Union has been invited to participate, and I think they all will. Under those circumstances

I think that this conference should meet in Washington in 1932. I am not going to recount the facilities that we have in Washington. I think the facilities in Washington are so well known that we do not have to be advertised any further.

On behalf of the commissioners of the District of Columbia, I extend to this meeting an invitation to meet in the city of Washington in 1932.

HARVEY WALKER (Ohio): There is one other idea in connection with the invitation to the city of Columbus that I would like to bring to your attention, and that is the next meeting will be the twenty-fifth anniversary. I think it would be highly appropriate for the Association to hold its next meeting in the city of Columbus, where it had its origin, and I would like to suggest to the executive committee that the celebration that can be offered on the occasion of the silver anniversary of the Association can be most properly celebrated in Columbus. We would like to invite you to come there for the twenty-fifth anniversary.

CHAIRMAN FAIRCHILD: Are there any other invitations? It appears evident, ladies and gentlemen, with these various invitations that we shall certainly be well entertained in 1931, 1932, 1933, 1934, 1935, and I know not how much farther. Last night we had the pleasure of witnessing what Mr. Cooke himself admitted was a perfectly unique event, a banker giving something away, but such virtue as Mr. Cooke may have ascribed to himself from that act was in my mind at any rate somewhat tarnished by my observation that all of the cups, golf balls, and so forth, which he gave away, were apparently given to bankers. Apparently the banker's idea of giving something away is modified by the moral precept that charity begins at home.

Tonight we are going to give Mr. Cooke a chance to redeem himself. He has still one or two more cups, and perhaps somebody not a banker may have a look-in tonight. I recognize Mr. Cooke.

THORNTON COOKE: Not a chance, Mr. President; they both go to bankers. One redeeming feature is, a banker gave one of them. If Mr. Charles M. Schmidt and Mr. Joseph B. Ryan are in the room, please rise and march to front and center. What am I to do about this? Mr. Ryan has won for the coming year, at any rate, the John J. McInerny cup, and Mr. Ryan parts with the cup he won last year to Mr. Charles M. Schmidt, whose putter was working so well yesterday, and Mr. Schmidt has today finished a 54-hole contest. Mr. Ryan had a fine 87 on the Indian Hill course. I will just turn over both of these to you and ask you to make your own disposition, in view of the absence of one of the donees.

(Presentation of cups.)

CHAIRMAN FAIRCHILD: Is there anything further to come before this meeting?

MR. PHILIP ZOERCHER: I move we adjourn.

(Motion duly seconded)

(Ayes and noes)

(Association adjourned *sine die*)



## APPENDIX

### REVIEW OF STATE TAX LEGISLATION, 1930

BEULAH BAILEY, *Librarian*

New York State Department of Taxation and Finance

During 1930 nine state legislatures held regular sessions: Kentucky, Louisiana, Massachusetts, Mississippi, New Jersey, New York, Rhode Island, South Carolina and Virginia. Ten states held special sessions: Idaho, Illinois, Kansas, Maine, Maryland, Nebraska, New Hampshire, Texas, Utah and West Virginia.

#### STATE ADMINISTRATION

##### *West Virginia*

A new state code was adopted in West Virginia, effective January 1, 1931.

#### LOCAL TAX ADMINISTRATION

##### *Illinois*

The various resolutions, ordinances and bond issues of the taxing bodies of Cook County and of Chicago passed as emergency measures to meet their fiscal situation were validated at the special session. These included warrants issued in excess of the 75% limit; the Chicago appropriation bill, amended by the City Council before the time permitted by law; the issuing of \$7,000,000 in bonds by Chicago to cover the 1928 deficit and of \$2,500,000 in bonds by County Boards, the elimination of a referendum for county bond issues to pay outstanding indebtedness; provision for a working cash fund for Chicago and one for Cook County; issuing of bonds by school districts for the payment of unpaid orders for the wages of teachers and allowing the school districts to levy taxes to pay the principal and interest without a referendum; and a \$6,500,000 school-bond issue for Cook County.

##### *Massachusetts*

The Commissioner of Corporations and Taxation has been authorized to find some way to provide for the payment of local taxes in two or more installments so as to get more money at the beginning of the year.

## SPECIAL INVESTIGATION COMMISSIONS

*Arkansas*

The Bureau of Municipal Research is to make a scientific, unbiased and non-political study of the state government and report to the Governor in 1931.

*Georgia*

A group of private citizens are financing a survey of the state tax system in order to devise a scheme for the orderly rehabilitation of the state's financial affairs. The survey is to be completed by November 1st. If necessary, the Governor may call a special session then. A study is also being made of the state's accounting needs with a view to installing a new system.

*Illinois*

The Illinois Revenue Investigation Commission appointed in 1929 made a preliminary report May 10, 1930, recommending first that the constitution be amended giving the General Assembly broad powers of taxation and removing restricting clauses; second the establishment of a permanent, independent, non-partisan tax bureau for constant research. The final report is to be made in 1931.

*Iowa*

An unofficial commission of business organizations and trade groups has been established to cooperate with the official special tax committee in making a study of the Iowa tax situation and in formulating recommendations for the legislature.

*Louisiana*

The Louisiana Tax Commission is authorized to make a thorough study and investigation of the taxing systems used in all the other states and to report to the 1932 legislature.

*Massachusetts*

The 1929 special commission reported but no action was taken upon their recommendations. Instead the legislature appointed a new commission to make a further study of Massachusetts' problems.

*New Hampshire*

The Recess Tax Commission appointed in 1927 reported in 1929. The program embodied four bills. 1. The exemption of standing timber; 2. greater equalization of school costs; 3. relief of all towns and cities from the maintenance of trunk-line and state-aid highway; 4. exemption of the finished products of manufacturers. A burden of \$1,500,000 annually thus shifted from the communities

was to be derived from a tax upon electric and gas utility franchises, and a tax upon personal and corporate incomes. The constitutionality of these bills was questioned. The Supreme Court in answer to a joint resolution of the two houses said the proposed laws were on the whole constitutional but some changes would have to be made. The bills were revamped and came up before a special session of the legislature in February and were all defeated. A recess commission was appointed during the special session to study the subject of the taxation of chain stores.

#### *New Jersey*

The commission on county and municipal taxation and finance is continued for another year.

#### *New Mexico*

The Governor called a conference of several state-wide organizations to consider the tax question and submit recommendations to the next legislature.

#### *New York*

A temporary tax survey commission, consisting of nine members to be appointed jointly by the Governor, the President of the Senate and the Speaker of the Assembly was created. The purpose of this commission is to produce "a workable and practicable and equitable system of taxation" for New York State and one which will "reasonably distribute the tax burden as widely and evenly as possible." \$75,000 was appropriated for this commission. A joint commission of the senate and assembly was created by a joint resolution of said bodies "to study the assessment of real property in the municipalities and to report recommendations looking towards a revision of the statutes affecting such assessments." This commission is comprised of three senators and five assemblymen.

#### *Ohio*

The Governor appointed a committee of 125 men representing every economic and professional interest in the state and known as the Governor's Taxation Committee, to make a thorough study of the tax needs of Ohio and to recommend a comprehensive tax program. Many of the sub-committees have already reported and the completed report will be made to the legislature in 1931.

#### *Oklahoma*

An unofficial tax commission of eight members was appointed by the Governor. They will report at the next meeting of the legislature.

*Tennessee*

A non-official committee of 15 business men was appointed at a state-wide conference on taxation to make an impartial and non-political study of the state's tax system and make recommendations to the legislature. A special study is also to be made under the direction of the state tax commissioner.

*Texas*

The Revenue and Taxation Committee of the House of Representatives made a study of how to reduce the tax burden on general property.

*Washington*

An advisory commission of nine members has been appointed to make a tax survey. They are to report in 1931. Special attention is being given to the advisability of an income tax and a sales tax.

*West Virginia*

West Virginia made a special governmental study of its tax situation.

*Wyoming*

A citizens committee of 21 members was appointed. It is to report January 13, 1931. The Governor appointed four tax-valuation committees as sub-committees to the citizens committee. They are to make their preliminary report August 22 on: 1. school finances, 2. equalization of valuations, 3. new sources of revenue, 4. state budget.

## ADMISSION TAX

*Mississippi*

A tax of 1 cent for each 10 cents or fractional part thereof is levied on all admissions to amusement places, including public bathing places and public dance halls. Every such place of amusement must have a permit to operate. The tax commission administers the tax and prescribes the form of the tickets. The tax is payable monthly, penalty 10%. If the tax is not paid within 30 days the permit is revoked, the person to continue operating must pay all back taxes and penalties and furnish a bond. School athletics, benefits, fairs, etc. are exempt.

## ADVERTISING TAX

*New Jersey*

A tax of 3 cents for each square foot of billboards or any other structure on which any advertisement is placed is levied by New Jersey, effective January 1, 1931. Besides this permit, as it is called,

every corporation must also obtain a license, cost \$100. The permits are issued by the Commissioner of Motor Vehicles. A bond of \$1,000 has to be filed with the Commissioner. The money from the permits is divided among the municipalities the basis of the money collected from said municipality.

#### ASSESSMENT

##### *Illinois*

During the special session, laws were enacted providing fixed schedules of calendar dates for the various steps in the assessment of property.

##### *Massachusetts*

A board of tax appeals is established in Massachusetts. To this board can be referred all appeals from the Commissioner of Corporations and Taxation on all manner of taxes and also from the local board of assessors. No appeal to the board shall stay the collection of any tax or excise.

#### BANK TAX

##### *California*

The Attorney General of California has held that the Macallen decision could not apply to California. In Massachusetts it was the intent of the legislature to subject non-taxable securities to the tax. In California it is not an income tax but a franchise tax upon the right or privilege of a corporation to do business, and all property of the owner, whether exempt or not, must be reported and duly considered in determining the value of the franchise.

##### *Kansas*

Kansas bankers have been asked by the Kansas Tax Commission to refrain from litigation contesting the right of the state to tax financial institutions until Congress takes some action in regard to Section 5219 of the Revised Statutes. California, Minnesota and New York have established such a precedent. However, mandamus proceedings have been brought against the tax commission to test their power in taxing shares of stock of banks, mortgage companies and trust companies.

##### *Massachusetts*

By the Macallen decision the bank tax of Massachusetts was in 1929 held unconstitutional. The legislature this year passed a law providing for the refunding, for the years 1926-1929, that part of the bank tax which was levied against income from government securities with interest at 6%.

The bank tax act itself was amended so that now banks are to be taxed on exactly the same income that an individual would be taxed on under the income-tax law; this of course excludes net income from government securities. This same law also made a special classification of manufacturing corporations so that a little higher rate could be obtained to apply against the taxable income of banks, as the law states that the rate upon banks shall not be higher than the rate assessed upon mercantile and business corporations. Under the corporation-tax law a machinery deduction is allowed manufacturing corporations against their taxable income. The purport of this law is the taxation of banks only and the relationship to other corporations is merely by way of getting a rate and not by way of taxing corporations more or less.

#### *Michigan*

A Michigan law providing that shares in banks and trust companies assessed for taxation on the basis of computed cash value, after deducting the assessed value of all real estate and certain securities of a municipal character, has been held unconstitutional as contravening the uniformity clause and as taxing banks at a higher rate than money in competition with them.

#### *Oregon*

The money collected from the 1929 excise tax and tax on intangibles is being held up by the State Treasurer as unreceipted until the cases now pending as to the constitutionality of these taxes is decided.

#### *Washington*

The tax on banks and other fiscal corporations was held unconstitutional in a decision handed down by the Supreme Court, June 12, 1930. The law violated the equal-protection clause of the constitution and provides for the taxation of income from tax-exempt government securities. A rehearing has been denied.

#### CHAIN STORE TAX

##### *Georgia*

The Superior Court of Georgia has held the tax constitutional in Georgia. An appeal has been taken to the Supreme Court.

##### *Indiana*

The Supreme Court of Indiana held, Feb. 8, 1930, the graduated license tax on chain stores unconstitutional. The case has been taken to the United States Supreme Court.

*New Hampshire*

A recess commission was appointed to study the subject of the taxation of chain stores.

*North Carolina*

The State Supreme Court held, Sept. 19, 1930, the license tax on branch and chain store operators constitutional. It is expected that the case will be appealed to the United States Supreme Court.

*South Carolina*

The annual license tax imposed on chain stores in 1928 was repealed in 1929, being held unconstitutional. A new law was passed in 1930. The 1928 law levied a tax of \$100 per store on chain stores—more than four stores constituted a chain-store system. The court held this discrimination. The 1930 law has a graduated tax on all stores ranging from \$5 on the first store, \$10 on the second, and so on to \$150 on the thirtieth, and each store in excess. This, unlike the 1928 law, taxes every store, even the first four. However, the constitutionality of this tax is being tested in the Federal District Court and the commission is waiting until a decision is rendered before it collects the tax.

## COLLECTION OF TAXES

*Illinois*

Illinois this year provides for the collection of delinquent special assessments without entry on the general text books.

*New York*

There was a new article of the Tax Law enacted, in regard to the selling of property for delinquent taxes. This new article permits any city by ordinance to abolish its present system of tax sale and to elect to conduct its tax sales in compliance with the provisions of this law. When the property is sold for taxes, the owner of the certificate of sale has a lien on such lands for the amount of the purchase money paid and all interest, penalties and other charges allowed by law. After the expiration of the period, within which the land so sold may be redeemed by the owner, occupant or mortgagee, but not later than five years from the date of sale. The owner of the certificate, instead of taking a conveyance as provided by law, may at his option recover the purchase money and other sums by maintaining an action to foreclose such lien and sell the land in the same manner as though such lien were secured by a mortgage.

## CONSTITUTIONAL AMENDMENTS

*Arizona*

Arizona will submit the following amendments to the people November, 1930. (1) Only real property taxpayers shall be permitted to vote upon bond issues or special assessments. (2) No direct tax shall be imposed upon motor vehicles but a gasoline or motor-fuel tax shall be in lieu of all direct taxes. (3) The authorization of a \$10,000,000 bond issue, accompanied by an increase in the gasoline-tax rate from 4 cents to 5 cents.

*Arkansas*

There is a proposed amendment as a result of initiative petition. The amendment is to prohibit inheritance or death taxes in excess of the estate tax levied by the United States Government.

*California*

The following amendments relative to taxation are to come before the voters November 1930: (1) The exemption of hospitals and sanatoriums from taxation. (2) The apportioning of state taxes to Firemen's Funds. (3) Tax on street railways to be fixed at  $4\frac{1}{4}\%$  of gross receipts. (4) Toll-bridge property acquired by the state is to continue to be taxed by localities so long as tolls are collected. (5) Taxation of ocean marine insurers. (6) Provision for a tax on motor vehicles in lieu of the personal property tax. (7) Reimbursement of counties for losses from state taxation brought about by the withdrawal from local taxation of property taxes for state purposes.

*Florida*

The legislature of Florida adopted by one vote a proposed amendment permitting an inheritance tax, the rate of which will be 80% of the federal. This is the same tax now levied in Georgia.

The second amendment proposed is the eliminations of the *ad valorem* tax on automobiles. These amendments will be submitted to the people for ratification or rejection in November, 1930.

*Georgia*

An income tax was enacted in Georgia by the 1929 legislature and the same time the legislature approved a constitutional amendment permitting the levy of an income tax at a rate not to exceed 5%. If such a tax is levied the *ad valorem* tax for state purposes shall not exceed 4 mills for the first year an income tax is levied. 3 mills the second year and 2 mills for any subsequent year. This amendment will be voted upon by the people at the November election.



*Illinois*

A 1929 law provides that the state of Illinois shall acquire and establish a state system of conservation of forest preserves and public recreation grounds. For the financing of this provision there is to be a bond issue of \$14,000,000. These bonds are to be made payable in thirty years at 4% interest and not more than \$1,400,000 worth of bonds shall be issued in any one year. The provision to issue these bonds is to be submitted to the voters at the November 1930 election.

The following amendments passed by the special session of the general assembly will be submitted to the people November 1930. The amendments to be carried must receive a majority of all votes cast at the election. These amendments remove the idea of uniformity.

1. The general assembly shall have the power to enact laws to provide revenue. All real estate must be in one class for purposes of taxation except mineral lands and reforested lands.

2. If Illinois should have an income tax, the state should receive not more than 15% and the rest distributed among the counties on the basis of the ratio of the total amount collected from each county bears to the amount collected from the whole state. This may be changed by a two-third vote of the general assembly, and the Assembly may further divide the money to the counties among the municipal corporations. General Assembly may also direct the distribution among the localities of other taxes collected by the state.

3. General Assembly may vest the corporate authorities of all governmental units with power to levy special assessments for local improvement, and to assess and collect taxes for all other corporate purposes.

4. Except for the income tax, the general assembly shall not impose taxes upon the localities for local purposes.

*Indiana*

The attorney general has ruled that the resolution for an income tax amendment was improperly passed and it cannot go before the voters in November 1930, but that the legislature must repass it in 1931.

*Kansas*

A referendum will be submitted to the people at the general election in 1930 to amend Article 11 of the constitution so as to permit a graduated personal income tax.

*Louisiana*

An amendment to Art. X of the constitution will be submitted to the electors November 1930. This amendment provides that any

municipality or parish may exempt new industries or additions to existing industries from any or all general or local taxes for a period not exceeding five years if the resident property taxpayers thus vote and if any competing industry situated within the municipality or parish consents to it.

A \$68,000,000 bond issue will be submitted to the voters in November 1930. This will be used for hard-surfaced highways, gravel roads, and bridges, and also a further bond issue of \$1,000,000 for the purpose of developing an airport for the city of New Orleans.

#### *Missouri*

An amendment exempting all evidence of debt for money loaned on real estate is to be voted upon November 1930.

#### *Montana*

Section 9, Article 12 of the Montana Constitution states the maximum tax rate. A referendum is to be voted upon November 1930, providing for the increase of the rate of taxation on real and personal property for state purposes not to exceed three mills. This is in addition to the tax already permitted by the constitution. This additional tax is to be for a period of ten years beginning 1931. The money from this additional tax is to go to the support, maintenance and improvement of the institutions comprising the Greater University of Montana, the Agricultural Experiment Station and the Agricultural Extension Service.

#### *New Hampshire*

The Constitutional Convention proposed the following amendments: The general court may from time to time exempt from the operation of any income tax imposed by them so much income as they deem just, but no tax upon income shall be assessed at a rate greater than the average rate of taxation upon general property throughout the state for the year prior to such assessment.

#### *New Jersey*

An amendment permitting a \$100,000,000 bond issue and increasing the gasoline tax from 2 cents to 3 will be voted upon in November.

#### *North Carolina*

An amendment providing for classification of property for taxation will be voted upon in November 1930.

#### *Ohio*

The amendment permitting classification of property for tax purposes was passed by the voters. It becomes effective January 1, 1931.

*South Carolina*

Amendments to be voted on in the November 1930 elections are: Classification of property for taxation, so as to permit the taxation of intangibles at a rate not to exceed one-half of one per cent of the true value of such intangibles. Biennial sessions of the general assembly and the levy of an annual tax biennially.

*Utah*

At a special session of the general assembly three amendments to the constitution were proposed. The first proposes to permit the classification of intangible property for purposes of taxation and provides that such property may be taxed as property in such manner and to such extent as the legislature may determine, providing that until January 1, 1937 the property tax shall not exceed 5 mills on the dollar valuation. It also provides that in case a tax on the income from intangible property is enacted by the legislature that then there shall be no property tax on the intangible property. This amendment will thus permit either the taxation of the intangible property at a low rate as property or a tax on the income from the property.

A second amendment proposes to create a state tax commission consisting of four members to be appointed by the governor by and with the consent of the Senate. The commission would have such supervision over the state tax system and such authority as the legislature might provide.

A third amendment provides that the present net-proceeds basis for the taxation of mines shall continue until January 1, 1935 and that thereafter all metalliferous mines or mining claims shall be assessed as the legislature shall provide.

A fourth resolution amends the 1929 joint resolution proposing to amend the constitution in regard to the state school fund and the manner of distributing the school revenue. This amendment fixes the maximum rate on tangible property at 2.4 mills for general state purposes and two-tenths of a mill for high schools. These amendments are to be voted upon in November, 1930.

*Washington*

An amendment providing for classification of property for taxation is to be voted upon in November, 1930. In the same amendment authority is given to the legislature to exempt personal property to the amount of \$300.

*West Virginia*

An amendment providing for an executive budget will be voted upon in November, 1930.

## CORPORATION TAXES

*Kansas*

The law providing for the assessment and taxation of the shares of stock held by shareholders of banks, loan companies and trust companies and the taxation of the same at an *ad valorem* rate has been amended to include the stock of investment companies and finance companies, and excepts the stock of public service corporations, insurance companies, express companies and corporations expressly taxed under other provisions of the law. Tangible personal property of the corporation is under the 1930 law made deductible from the assessed valuation of the capital stock as well as real estate, and also extra-territorial real and personal property if it can be shown that the same is listed for taxation in some other state or some other county in Kansas.

*Mississippi*

A franchise tax was levied upon the capital stock of all corporations organized for profit. The rate is \$1.00 per \$1,000 of the capital stock based on the capital of the corporation at the close of the preceding calendar year or fiscal year, and of foreign corporations the capital stock employed in the state. The minimum tax is \$10.00.

*Rhode Island*

The corporate excess-tax law is amended so as to confer broader powers of discretion upon the Board of Tax Commissioners in determining or arriving at the ratable value of a corporation.

*South Carolina*

The rate of income tax on corporations was increased by a 1930 law from 4% to 4½% and provision was made for a minimum tax of 2% on a base consisting of net income plus salaries and other compensation paid to all elected and appointed officers, and to any stockholder owning in excess of 5% of the issued capital stock, deducting \$6,000 and any deficit reported for the year. This is the same as the New York State law.

*Tennessee*

At a special session of the legislature in December 1929 the capital stock tax law was amended providing that corporations may at their option pay either a tax of ½ of 1% of gross receipts from intrastate business with a minimum of \$25 or pay on their authorized capital stock as in the existing law.

*Texas*

A new franchise tax was enacted on every domestic and foreign corporation doing business in the state. The base of the tax is that

proportion of the outstanding capital stock, surplus and undivided profits, plus the amount of outstanding bonds, notes and debentures, other than those maturing in less than a year from date of issue, as the gross receipts from its business done in Texas bears to the total gross receipts of the corporation from its entire business. The rate is 60 cents for each \$1,000 or fractional part thereof from \$1.00 to \$1,000,000 and 30 cents in excess of \$1,000,000. The minimum tax is \$10.00. The tax is due between January 1st and March 15th. Penalty, 10% of tax due. It is administered by the secretary of state. Tax became effective April 10, 1930. The former corporation-tax law was held unconstitutional. A case testing the constitutionality of the 1930 tax is now pending before the court.

#### DEATH TAXES

##### *Canada*

Prince Edward Island and Saskatchewan have reciprocity with all the reciprocal United States jurisdictions except Idaho, Illinois, Maine, Mississippi, North Carolina, Washington and Wisconsin. It became effective in Prince Edward Island April 10, 1930 and will become effective in Saskatchewan upon the proclamation of the Lieutenant Governor.

##### *Kansas*

An estate tax was levied equal to the difference between the Kansas tax upon an estate and the 80% federal credit. The tax is chargeable against the interests of each beneficiary in proportion to the amount of the normal state inheritance tax paid by each.

##### *Massachusetts*

The original Massachusetts estate-tax law picking up the 80% slack carried a provision that if the law were declared unconstitutional, then the estates could recover from the government what they had paid because of the estate tax. A 1930 amendment provides only in the event that the Federal Government requires them to pay the 80% credit, can they recover from the state government.

##### *New York*

The transfer-tax law and the former estate-tax law on estates of over \$200,000 has been repealed and a new estate-tax law based upon the federal has been enacted. The tax is assessed upon the net estate passing by operation of the will, or by intestacy, or by gifts or other transfers taking effect at death. Intangibles of non-resident decedents are not taxed. The rates are from  $\frac{1}{2}$  of 1% to 16%. Net estates of less than \$5,000 are not taxable. Exemptions are husband or wife, \$20,000; ancestors, descendants, son-in-law or

daughter-in-law, brother or sister, \$5,000. The law is administered by the Department of Taxation and Finance and becomes effective September 1, 1930.

Another law provides for the compromise between the executor and the state tax commission, with the approval of the attorney general, of the tax on a contingent interest either life estate or remainder. It will not be necessary under this law to await the termination of the trust in order to make these adjustments. Under the new estate tax there will be no more contingent interests.

A third law provides a statutory method of equitably apportioning the estate tax, both state and federal, among the various persons interested in the estate in proportion to the benefits derived by each interest.

### *Ohio*

The attorney general has held that proceeds of life-insurance policies made payable to a trustee and distributed after death by the trustee are subject to the Ohio inheritance tax.

## EDUCATION

### *Louisiana*

The amount of aid from the state for public schools is fixed at \$12 for each child between 6 and 18 years. Future legislatures are required to appropriate this sum of money. One-half of the additional 1 cent tax on gasoline is to go for education.

## EXEMPTIONS

### *Kansas*

Personal property brought by a non-resident into a county after March 1st and prior to September 1st shall be listed, unless such person can show that said personal property has already been listed for taxation in another county or state. This bill is for the owners of certain lands that pasture Texas cattle.

### *Massachusetts*

The same exemption has been granted to the veterans of the Spanish War, the Philippine insurrection, and the Chinese Relief Expedition as are given to the men who served in the World War.

The property exemption of widows, orphans and persons over seventy was increased from \$1,000 to \$2,000.

### *New York*

A pension exemption is this year granted to the dependent father of a veteran as well as the dependent mother, wife or widow.

*South Carolina*

New manufacturing concerns or additions are exempt for a period of five years from county taxes, except for school purposes, in Darlington county if the capital stock of the company is not less than \$50,000. Aiken county exempts such concerns from both county and township taxes. Orangeburg, Florence, Spartanburg, and Chesterfield counties exempt from county taxes, except for schools, for a period of five years all new manufacturing concerns or additions if the capital stock is not less than \$25,000. Bamberg County is required to allow similar five-year exemption but does not designate the minimum capital stock of the concern.

*Virginia*

Local governmental units are given authority to exempt manufacturing industries and works of internal improvement from local taxation for five years provided that such concern does not compete with any existing concern and that the governmental officials think the increased taxable values due to the industry will compensate them for the five years' omission.

## GASOLINE TAX

*Arizona*

An amendment is to be submitted to the people asking for an authorization of a \$10,000,000 bond issue and an increase of the gasoline tax from 4 cents to 5 cents a gallon.

*Canada*

In 1930 the Provinces of Manitoba, British Columbia and Saskatchewan increased the gasoline-tax rate to 5 cents for the imperial gallon. This rate is now universal throughout Canada.

*Florida*

Aerodiesel fuel is taxable when used as a substitute for gasoline, but not if used as a substitute for kerosene.

*Idaho*

A special session of the legislature increased the gasoline tax from 4 cents to 5 cents per gallon. This additional one cent is to be placed in a fund to be known as the "State Highway Treasury Note Redemption Fund" for repayment of the principle and interest of \$1,000,000 of treasury notes sanctioned by the 1930 legislature. The notes are to be issued after January 1st, 1931 for the use of the state highway fund. The money will make a workable fund for the highway department and make it possible for the state to match the federal aid money. The additional one cent gasoline tax cannot be repealed so long as any of these notes are unpaid.

*Illinois*

The Supreme Court has held that state gasoline taxes voluntarily paid under the unconstitutional 1927 act cannot be recovered, even though paid under protest.

*Kentucky*

The gasoline tax has been extended to include taxation of gasoline produced by refineries and of gasoline purchased outside of the state in addition to gasoline sold by wholesalers. Kentucky this year allows 1% of the volume for evaporation and leakage and 1% of the amount of the tax to cover the expense of collection by the distributor. An annual bond is required of all distributors, the amount to be determined by the tax commission, covering the estimated sales.

*Louisiana*

The rate is increased from 4 cents a gallon to 5 cents. One-half of the additional cent is to go for an equalizing fund to be distributed by the state board of education to the needy parishes. \$100,000 of the other one-half is to go to the Port of Lake Charles and the remainder to the Port of New Orleans.

Formerly the Louisiana law made no provisions for exemptions or refunds. A 1930 law exempts gasoline manufactured, blended or imported into the state for export. Dealers are given the privilege of filing a bond in lieu of immediate payment of the tax. The bond is not to exceed \$10,000. The penalty has been increased from 2% on the amount of the tax and 10% attorney's fees on both tax and penalties to 20% on the amount of the tax, the attorney's fees remaining the same. If the tax and penalties are not paid, the property may be attached and the place closed.

*Minnesota*

The attorney general has held that in computing refunds of the gasoline tax due to shipments out of the state or sales to the Federal Government, the distributor is entitled to refund on the amount sold or exported minus the 3% of gallonage allowed for evaporation.

*New Jersey*

If a \$100,000,000 bond plan for public improvements, \$65,000,000 for highways, \$18,000,000 for grade crossing elimination, \$10,000,000 for institutions and \$7,000,000 for acquisition of public water supply land is passed by the people in November, then the gasoline tax shall be increased from 2 cents to 3 cents. This same act allows a refund of 1 cent per gallon for fuel used in motor boats. A 1930 law allocates \$2,000,000 annually of the gasoline tax money for grade crossing elimination as well as the usual \$90,000 for improvement of inland waterways.



The attorney general has held that fuel used by airplanes is not subject to the gasoline tax.

#### *New York*

The original 1929 law prescribes a penalty for the failure to file a return but none for the failure to pay the tax. A 1930 law rectifies this. The penalty is 5% of the amount of tax plus 1% of such amount for each month of delay or fraction thereof after the expiration of the first month. The tax commission has the right to remit all or any part of such penalty if they see fit. Unpaid penalties shall be recovered by the Attorney General. "Motor Vehicle" has been redefined. Road-building machinery, power shovels and tractor cranes are among the exempt. Road rollers were included in the original law but omitted this year. The law governing the determination of the tax in case the distributor fails to file his return was amended. The amendment states that the application for an order of certiorari must be made within 30 days after the department has determined the tax, and the order of certiorari will not be granted unless the amount of the tax and the penalties is first deposited with the commission.

#### *Pennsylvania*

The gasoline tax was automatically reduced from 4 cents to 3 cents July 1, 1930 in accordance with the 1929 law.

#### *Rhode Island*

The time for which claims for reimbursement may be made by distributors is extended from 60 days to 120 days.

#### *South Carolina*

The 1930 General Assembly imposed a license tax on gasoline imported, kept, stored or used in the state, which has not been subjected to the payment of a license tax under any other statute of the state. The act in question is intended to tax all gasoline used by persons, firms, corporations, municipalities, counties, etc., and on which the tax was not paid under the provisions of any other act.

The 1930 act makes definite the exemption of crude petroleum, residuum or smudge oil, crude oil, fuel oil or kerosene oil. One per cent to cover loss by evaporation, spillage or otherwise may be deducted by the taxpayer when remitting the tax.

#### *Tennessee*

At the 1929 special session the gasoline-tax law was amended so as to require retail dealers in gasoline to procure permits for purchases in carload lots.

*Virginia*

The distribution of the gasoline tax is changed effective January 1, 1931. 70% goes to the state and 30% to the localities for the maintenance of roads and bridges embracing the county highway system. One-third of this 30% is apportioned among the localities on the basis of state taxes collected in 1925 (before segregation) and the remaining two-thirds on the basis of area, population, and total state taxes and local levies collected by the county treasurers. Each of these three factors is given equal weight. Formerly the distribution was on the basis of taxes paid into the state by the localities.

*Wyoming*

The tax on gasoline used for aviation is to go for municipal air fields.

## GENERAL PROPERTY TAX

*Mississippi*

Improvements, real estate and interests separately owned shall be assessed and taxed separately.

*Rhode Island*

A 1930 law changes the base upon which the direct state tax on cities and towns is computed, beginning in 1931. This tax is now computed upon local valuations, whereas beginning in 1931 the base will be the amount of local tax annually assessed upon the ratable property of the several cities and towns.

*Tennessee*

At the special session in December 1929 a law was enacted providing that the state after 1930 shall collect *ad valorem* taxes for elementary schools only. The rate for which is 1 mil on the dollar and  $\frac{1}{2}$  mil on the dollar.

## INCOME TAX

*Georgia*

The income tax of Georgia was held constitutional April 17, 1930 by the Georgia Supreme Court. The tax became effective October 1, 1929. The state tax commission has held that a reduction of the federal income tax does not affect the rate of the state income tax. The basis of the state income tax is one-third the federal rate as it existed at the time the state measure went into effect.

*South Carolina*

The personal income tax exemptions have been decreased, single, \$1500 to \$1200; and heads of families \$2500 to \$2200. The rates

have been increased by lowering the brackets. They are now 1% from \$1200 to \$2,000; 2% from \$2,000 to \$4,000; 3% from \$4,000 to \$6,000; 4% from \$6,000 to \$8,000; 5% all over \$8,000. South Carolina grants a reciprocal provision for non-residents deriving income in South Carolina.

#### *Virginia*

The exemptions were raised from \$1,000 to \$1250 for single people and from \$2,000 to \$2800 for married. These exemptions became effective on income earned during 1930. It is thought that this will decrease the revenue about \$300,000.

#### *Wisconsin*

The tax commission has handed down a decision exempting insurance companies and steam railroads and sleeping-car companies from the income tax. Electric companies and improvement companies are subject to the tax.

### INTANGIBLES, MONEY AND CREDIT

#### *Kansas*

The 1927 laws defining moneys, credits and received debts and providing for a tax upon the same was repealed by a 1930 law, becoming effective March 11, 1930. The mortgage-registration fee was retained.

#### LICENSES

#### *Georgia*

The annual license tax of \$25 on real-estate brokers has been held constitutional by the Georgia supreme court.

#### *New Jersey*

Commission merchants or brokers must be licensed. Fee, \$2.00. Agricultural cooperative associations exempt.

#### *Texas*

This year Texas levied an occupation license fee of \$250 on the members of any cotton exchange or any broker.

#### *Virginia*

A license fee is levied on moving picture films. The rates are as follows: \$2 for each 1,000 feet or fraction thereof of original moving picture film; \$1 per \$1,000 feet for duplicates, current events, and educational films; 50 cents for each permit. Wholesale ginned cotton buyers are to pay an annual license tax of \$100 if the purchase did not exceed 1000 bales and 2 cents per bale for each one in excess.

## MALT EXTRACTS

*Louisiana*

The 1928 malt extract tax in Louisiana in its ability to produce revenue was not a success. The tax instead of producing the hoped-for \$1,000,000 a year only produced \$100,000. The evasion was great. The rate under the 1928 law was 10 cents per 16-ounce pound, the new 1930 law reduces it to 3 cents. The maximum penalty for evasion was increased from \$500 to \$1,000, and dealers are given the privilege of filing a bond not to exceed \$15,000 in lieu of the immediate payment of the tax.

*South Carolina*

A license tax of 10 cents per pound is levied upon all malt or malt extracts or substitutes. The only malt exempt is that used in the making of breads, pastries and yeast in baking or for medicinal purposes.

## MISCELLANEOUS

*Louisiana*

The production of registered and certified cotton seed has been licensed and regulated by law.

*South Carolina*

Buyers of furs, hides and pelts must first procure a license. For a county resident it is \$25, a non-resident \$200. The tax is payable to the county deputy game warden.

A graduated license tax (50 cents to \$2.50) was imposed on radio sets used in the state. The constitutionality of the law has been attacked and the collection of the tax has been temporarily enjoined by the Federal District Court.

*Tennessee*

That section of the carbonic gas law stating that the excise tax on carbonic acid gas was in lieu of other state privilege taxes and was repealed at the special session of 1929.

*Texas*

A new law was substituted for a prior law levying a license tax on the gross receipts of text-book companies which expired September 1, 1929. The rate is 1% of gross receipts. Reports filed with comptroller, tax payable to state treasurer. A license tax was levied on the gross receipts of sulphur mines. The rate is 55 cents per long ton or fraction thereof of all sulphur produced in Texas. Report filed with comptroller, tax payable to state treasurer. Penalties 10%. Tax payable quarterly.

## MOTOR VEHICLES

*Georgia*

Beginning September 1st, Georgia is going to adopt the method of issuing license plates by mail. This method is already in use in North Carolina, South Carolina and Pennsylvania. Georgia and South Carolina have effected reciprocity in regard to motor busses traveling interstate.

*Kentucky*

The fee on motor cycles formerly \$10 has been reduced to \$5. The fee for passenger pleasure cars has been decreased from 25 cents per H. P. to 19 cents, and from 40 cents per 100 pounds to 30 cents. This is a 25% reduction in the motor-vehicle license fees. A bill was passed providing for the refund of motor-registration taxes paid on vehicles which later may be lost by fire, theft or other casualty.

*Massachusetts*

The excise tax has been amended so as to provide for taxation by months, for periods of ownership of less than a year with a minimum tax of \$2.00.

*Minnesota*

A 1929 law making motor vehicles owned by a public service corporation paying a gross-earning tax subject to the motor-vehicle registration tax was held unconstitutional.

*Mississippi*

Non-residents, if staying in the state more than 25 days, must register temporarily with the state auditor. Fee \$1.00.

*New Jersey*

Motor-vehicle junk yards have to be licensed. Fifty dollars if the land thus used is 5 acres or less and \$100 if more than 5 acres. These licenses are issued by the Commissioner of Motor Vehicles. Application for state license cannot be made until a local permit is obtained. The cost to the applicant of the examination of the proposed site by the Commissioner of Motor Vehicles is \$25, and \$25 more and costs if a local hearing is held.

*New York*

Motor vehicles especially constructed and equipped to carry lost or disabled animals, if the vehicles are owned by incorporated societies for the prevention of cruelty to animals, are exempt from the registration fee.

*South Carolina*

With the exception of 90 days' operation of passenger motor vehicles, non-resident corporations must be licensed. Nine dollars for each automobile weighing not over 2,000 pounds and \$3 for each additional 500 pounds. The license for trucks and trailers range from \$30 to \$800, with a 50% reduction for pneumatic tires. Motorcycles \$5.

*Texas*

Farm trailers are exempt from the registration fee. Non-resident cars running regularly in Texas must have a temporary certificate of registration with Texas. Rate 50 cents. Vehicles used for marketing farm products are exempt.

*Virginia*

Virginia passed a law becoming effective January 1, 1931 which provides for a two-fold tax on carriers which operate regularly over established routes of travel. Passenger carriers are required to pay a weight tax at the rate of 70c. per 100 lbs., this is as for pleasure cars, and in addition a so-called road tax at the rate of  $1\frac{1}{2}\%$  of the gross transportation receipts for each quarter of the year. Property carriers will pay first a graduated capacity tax which conforms to that borne by private carriers and in addition the  $1\frac{1}{2}\%$  on gross receipts.

## SALES TAX

*Kentucky*

A tax is levied on all stores except those actually engaged in gardening or farming and selling garden or farm products raised by them in the state. The rates are as follows:

|       |       |                                 |
|-------|-------|---------------------------------|
| 1/20  | of 1% | on gross sales up to \$400,000. |
| 2 20  | " 1%  | " " " " 400,000-\$500,000.      |
| 5 20  | " 1%  | " " " " 500,000- 600,000.       |
| 8 20  | " 1%  | " " " " 600,000- 700,000.       |
| 11/20 | " 1%  | " " " " 700,000- 800,000.       |
| 14 20 | " 1%  | " " " " 800,000- 900,000.       |
| 17 20 | " 1%  | " " " " 900,000- 1,000,000.     |
|       | 1%    | " " " " over \$1,000,000.       |

A report giving the number and location of the store or stores and the total gross sales for the preceding calendar year must be filed on or before February 1st with the tax commission. The tax is payable not later than 30 days thereafter to the Auditor of Public Accounts, having first been certified by the tax commission. The penalty for refusal or failure to file or pay is 20% of the

amount plus interest at 6% per annum. This will also be a misdemeanor punishable by a fine not to exceed \$1,000.

### *Mississippi*

A sales tax was passed in Mississippi becoming effective June 1, 1930. The tax is measured by gross sales or gross income. The rate of tax depends upon the nature of the business.

Mineral products, timber, 1%.

Manufactured bricks, cement, etc.,  $\frac{1}{2}$  of 1%.

Soft drinks, ice factories,  $\frac{1}{2}$  of 1%.

Cotton seed oil mills,  $\frac{1}{8}$  of 1%.

All other manufacturers,  $\frac{1}{10}$  of 1%.

Sale of real and tangible personal property,  $\frac{1}{4}$  of 1%. One-fourth of 1% additional for more than 5 chain stores.

Street railroads, water works, gas, electric light companies,  $\frac{1}{2}$  of 1%.

Contractors,  $\frac{1}{4}$  of 1%.

Amusements, 1%.

Other businesses that require a privilege tax,  $\frac{1}{4}$  of 1%.

All privilege taxes are deductible from the sales tax. The companies exempt from the tax are: insurance companies, railroad, express, telephone, telegraph, sleeping-car and pipe-line companies and persons paying a tax under the Sea Foods Act; banks, saving associations, labor, agricultural, horticultural, fraternal benefit and civic societies not organized for profit, farm produce when sold by producer.

The money exemption is \$5,000. All persons subject to the tax must be licensed, cost \$1.00.

Reports and the payment of the tax are due quarterly, and becomes delinquent 10 days after the expiration of the quarter. The law is administered by the tax commission and the money goes into the general fund of the state.

### *South Carolina*

The tax has been increased on candy by reducing the measure to candy at 50c. a pound, formerly 80c. The Tax Commission is to refund the dairies the tax paid on all milk drinks sold to schools. The tax commission has ruled that all fruit drinks in bottles come under the state soft-drink law. The tax is 1 cent on each 5 cents.

### TOBACCO TAX

#### *Arkansas*

The courts have held that cigars and cigarettes purchased through the United States Veteran's Bureau Hospital are exempt from the state tobacco tax.

*Mississippi*

A tax of 1 cent for each 5 cents of the retail selling price of cigarettes and 20% of the selling price of cigars is levied upon all retail dealers. The dealers must have a permit to sell and must keep records. An affixed stamp is indication of payment of tax. Cigarettes and cigars sold to charitable organizations or state and federal institutions are exempt. Agencies acting as state depositories of the stamps and wholesalers and jobbers are allowed 2% of the face value of the stamps sold. The retailer when he buys from the depository is allowed 8% and when he buys from the tax commission, 10%. The money goes into the general fund. This act became effective June 1, 1930.

*New Mexico*

In 1929 New Mexico levied an excise tax on tobacco. One dollar per 100 on cigars and cigarettes weighing not more than 3 lbs. Cigars over 3 lbs., \$3 per 1,000. Other tobacco 1c. per ounce or 6c. per lb. The revenue is to go to the general fund of the state and the penalties to the school fund. The referendum was invoked and it will come before the voters in November 1930.

*Tennessee*

The rate for the tobacco tax was changed at the 1929 regular session of the legislature and again at the special session in December. The rate now is 10% of the retail price of cigars, manufactured tobacco and snuff, and  $\frac{1}{3}$  of 1 cent for each cigarette unless the intended retail sales price of any cigarette is more than 1 cent, and then the tax shall be 20% of such retail sales price. This is in addition to any special privilege tax. Every one selling tobacco must be licensed.

*Utah*

The cigarette taxes are now payable to the state instead of the city. All dealers must be licensed and bonded for \$500. The bond is to be filed with the state treasurer.



## ATTENDANCE AT THE TWENTY-THIRD ANNUAL CONFERENCE

### ARIZONA

|               |                        |         |
|---------------|------------------------|---------|
| Murphy, M. A. | State Tax Commissioner | Phoenix |
|---------------|------------------------|---------|

### ARKANSAS

|                      |                                               |              |
|----------------------|-----------------------------------------------|--------------|
| Childers, Hon. W. H. | Chairman, Arkansas Tax Com.                   | Little Rock  |
| Hammock, Hon. Wm. T. | Member, Arkansas Tax Com.                     | Little Rock  |
| Vaughn, George       | Professor of Law                              | Fayetteville |
| Waterman, J. S.      | Dean of Law School,<br>University of Arkansas | Fayetteville |

### CALIFORNIA

|                         |                                                         |             |
|-------------------------|---------------------------------------------------------|-------------|
| Blight, R. E.           | Franchise Tax Commissioner                              | Los Angeles |
| Ellsworth, Von T.       | University of California                                | Berkeley    |
| Johnson, Dr. Milbank    | Chrmn., Cal. Tax Payer's Assn.                          | Pasadena    |
| King, Lyman M.          | State Director of Finance                               | Sacramento  |
| Mussatti, James         | Editor <i>Tax Digest</i> ,<br>775 Subway Terminal Bldg. | Los Angeles |
| Mussatti, Mrs. James    |                                                         | Los Angeles |
| Pierce, Dixwell         | Sec'y, Board of Equalization                            | Sacramento  |
| Riley, Ray L.           | State Controller                                        | Sacramento  |
| Thompson, Frank T.      | L. A. T. S. F. R. R.                                    | Los Angeles |
| Thompson, Mrs. Frank T. |                                                         | Los Angeles |
| Winter, Richard         | Ass't Editor <i>Tax Digest</i>                          | Los Angeles |

### COLORADO

|                        |                                           |              |
|------------------------|-------------------------------------------|--------------|
| Collins, Clem W.       | Mgr. Revenue, City of Denver              | Denver       |
| Hofstetter, Roy P.     | Accountant                                | Denver       |
| Keim, D. D.            | Attorney, Chamber of Commerce             | Denver       |
| Klemmerson, G. S.      | State Agricultural College                | Fort Collins |
| Link, C. P.            | 936 Emmerson St.                          | Denver       |
| Morgan, E. B.          | Chrmn., State Tax Commission              | Denver       |
| Morgan, Mrs. E. B.     |                                           | Denver       |
| Roach, Charles         | Deputy Attorney General                   | Denver       |
| Ryan, J. J.            | Tax Agent, Public Service Co.             | Denver       |
| Seaman, J. R.          | Member, State Tax Commission              | Denver       |
| Spalding, George       | Mt. States Tel. & Tel. Co.                | Denver       |
| Spalding, Mrs. George  | 2219 Claremont St.                        | Denver       |
| Sykes, F. M.           | University Building                       | Denver       |
| Thatcher, Mrs. Lillian |                                           | Pueblo       |
| Tucker, S. E.          | State Tax Commissioner                    | Denver       |
| Walpole, N. S.         | Tax Commissioner, Standard<br>G. & O. Co. | Pueblo       |
| Walpole, Mrs. N. S.    |                                           | Pueblo       |
| Ziege, William O.      | County Assessor                           | Central City |

## CONNECTICUT

|                    |                             |            |
|--------------------|-----------------------------|------------|
| Blodgett, Wm. H.   | State Tax Commissioner      | Hartford   |
| Connelly, W. F.    | City Tax Commissioner       | Bridgeport |
| Fairchild, Fred R. | Prof. Economics, Yale Univ. | New Haven  |

## DELAWARE

|                  |                        |            |
|------------------|------------------------|------------|
| Dougherty, M. M. | University of Delaware | Newark     |
| Underwood, A. B. | DuPont Company         | Wilmington |

## DISTRICT OF COLUMBIA

|                      |                                              |            |
|----------------------|----------------------------------------------|------------|
| Bardoff, John T.     | Board of Assessors, District Building        | Washington |
| Colladay, E. F.      | Attorney, Second Natl. Bank                  | Washington |
| Colladay, Mrs. E. F. |                                              | Washington |
| Cottrell, Robert J.  | Sec'y, Board of Trade, Star Building         | Washington |
| Eby, R. J.           | Attorney, 725 13th St., N. W.                | Washington |
| Gaines, Lloyd F.     | Member, Board of Assessors                   | Washington |
| Miller, John         | <i>United States Daily</i>                   | Washington |
| Moore, Blaine F.     | U. S. Chamber of Commerce                    | Washington |
| Wallace, W. H.       | Attorney, 2nd Natl. Bank Bldg.               | Washington |
| West, Vernon E.      | Prin. Asst. Corp. Counsel, District Building | Washington |

## GEORGIA

|                   |                                                           |           |
|-------------------|-----------------------------------------------------------|-----------|
| Bryan, Malcolm H. | Prof. Economics, Univ. of Ga.                             | Athens    |
| Forbes, T. M.     | Sec'y, Ga. Cotton Mfg. Ass'n, 919 Atlanta Trust Co. Bldg. | Atlanta   |
| Kieffer, J. B.    | Income Tax Div. St. Tax Com.                              | Atlanta   |
| Lyle, Edward      | Tax Agent, So. Bell Tel. & Tel. Co.                       | Atlanta   |
| Norman, R. C.     | State Tax Commissioner                                    | Atlanta   |
| Royer, William C. | Atlanta Biltmore                                          | Atlanta   |
| Smith, John A.    | Head, Gross Receipts Tax Dept.                            | Talbotton |

## IDAHO

|                   |                                |       |
|-------------------|--------------------------------|-------|
| McKinney, John R. | Sec'y, St. Bd. of Equalization | Boise |
|-------------------|--------------------------------|-------|

## ILLINOIS

|                      |                                                                 |             |
|----------------------|-----------------------------------------------------------------|-------------|
| Barnett, Roy         | Tax Dept., Standard Oil Co. of Ind., 910 S. Michigan Ave.       | Chicago     |
| Billman, Dewitt      | 1420 Dial Court                                                 | Springfield |
| Billman, Mrs. Dewitt |                                                                 | Springfield |
| Bristol, A. E.       | Attorney, 10 S. LaSalle St.                                     | Chicago     |
| Connell, J. A.       | C. B. & Q. R. R., 547 West Jackson Blvd.                        | Chicago     |
| Cushing, Royal B.    | Attorney                                                        | Riverside   |
| Feldman, M. J.       | Attorney, 230 S. Clark St.                                      | Chicago     |
| Hunter, M. H.        | Prof. Economics, Univ. of Ill.                                  | Urbana      |
| Kixmiller, Wm.       | 11 So. LaSalle St.                                              | Chicago     |
| Komcel, E. F.        | Tax Att'y, C. & E. L. R. R. Co., 724 McCormick Bldg.            | Chicago     |
| Leander, Eric G.     | Editor, <i>National Income Tax Magazine</i> , 205 W. Monroe St. | Chicago     |

|                          |                                                                 |          |
|--------------------------|-----------------------------------------------------------------|----------|
| Leland, Simeon E.        | Prof. Economics, University of Chicago                          | Chicago  |
| Lewis, Edward R.         | Attorney, 606 S. Michigan Ave.                                  | Chicago  |
| Nelson, C. G.            | Public Service Corp., Railway Exchange Bldg.                    | Chicago  |
| Reber, H. J.             | Griffenhagen & Associates, Ltd., LaSalle Wacker Bldg.           | Chicago  |
| Sayler, James L.         | Tax Att'y, 201 S. LaSalle St.                                   | Chicago  |
| Sayler, Mrs. James L.    | 6529 Woodlawn Ave.                                              | Chicago  |
| Siefkin, F. D.           | Att'y, 606 S. Michigan Ave.                                     | Chicago  |
| Simpson, H. D.           | Prof. Economics, Northwestern University                        | Evanston |
| Sutherland, Douglas      | 105 W. Madison St.                                              | Chicago  |
| Sutherland, Mrs. Douglas |                                                                 | Chicago  |
| Watson, John C.          | Director, Dept. Taxation, Ill. Agri. Asso., 608 S. Dearborn St. | Chicago  |

## INDIANA

|                       |                                                    |              |
|-----------------------|----------------------------------------------------|--------------|
| Rinier, Geo. G.       | Attorney, Columbia Club                            | Indianapolis |
| Ullum, Clarence B.    | Inheritance Tax Administrator, 4046 Baltimore Ave. | Indianapolis |
| Wolfard, P. H.        | State Tax Commissioner                             | Indianapolis |
| Wolfard, Mrs. P. H.   |                                                    | Indianapolis |
| Zoercher, Philip      | State Tax Commission, 231 State House              | Indianapolis |
| Zoercher, Mrs. Philip |                                                    | Indianapolis |

## IOWA

|                      |                                                           |            |
|----------------------|-----------------------------------------------------------|------------|
| Brindley, John E.    | Prof. Economics, Iowa State College                       | Ames       |
| Cook, Louis H.       | Chrmn., St. Bd. of Assessments and Reviews, State House   | Des Moines |
| Cruver, Mrs. B. R.   | Valuation Clerk, Iowa St. Bd. of Assessments and Reviews  | Des Moines |
| Green, Harry M.      | Legislative Tax Commissioner                              | Avoca      |
| Nelson, Richard W.   | Prof. Public Finance                                      | Iowa City  |
| Reynolds, Dr. J. W.  | St. Bd. Ass't and Reviews                                 | Des Moines |
| Reynolds, Mrs. J. W. |                                                           | Des Moines |
| Rigby, C. L.         | Banker                                                    | Stanwood   |
| Sweany, Mrs. E. Mae  | Statistician, Iowa State Board of Assessments and Reviews | Des Moines |
| Warner, Frank        | Sec'y, Iowa Bankers Ass'n, 430 Liberty Bldg.              | Des Moines |
| Wicklund, John V.    | Examiner, Inheritance Taxation                            | Des Moines |

## KANSAS

|                        |                                                    |              |
|------------------------|----------------------------------------------------|--------------|
| Barnes, A. K.          | Farmer and Stockman                                | Harveyville  |
| Bomgardner, Mrs. R. A. | Tax Investigator, Santa Fe R. R., 1295 Mulvane St. | Topeka       |
| Boyer, C. H.           | Santa Fe R. R., 2007 West St.                      | Topeka       |
| Carroll, James A.      | Prairie Oil Co.                                    | Independence |
| Chase, H. T.           | Editor, <i>Daily Capitol</i>                       | Topeka       |
| Dawson, O. W.          | State House                                        | Topeka       |
| DeWees, M. W.          | Govt. Research, 727 Minn. Ave.                     | Kansas City  |

|                      |                                                      |             |
|----------------------|------------------------------------------------------|-------------|
| Elward, Rodney A.    |                                                      | Castleton   |
| Funchess, C. A.      | Tax Agent, So. Western Bell                          | Topeka      |
| Funchess, Mrs. C. A. |                                                      | Topeka      |
| Gunter, F. G.        | County Assessor                                      | Clay Center |
| Guy, J. M.           | Tax Agt., Kans. Gas & Elec. Co.                      | Wichita     |
| Guy, R. A.           | Tax Agt., Kans. Gas & Elec. Co.                      | Wichita     |
| Heller, Sam R.       | United Tel Co., United Bldg.                         | Abilene     |
| Howe, Harold         | Prof. Econ., Kans. Agri. College                     | Manhattan   |
| Howe, Mrs. Harold    |                                                      | Manhattan   |
| Jennings, L. D.      | Prof. Finance, Univ. of Kans.                        | Lawrence    |
| Jensen, Jens P.      | Prof. Econ., Univ. of Kansas                         | Lawrence    |
| Jones, W. H.         | Att'y, Wheeler-Kelly-Hagny<br>Trust Co.              | Wichita     |
| Krug, F. H.          | County Clerk                                         | Russell     |
| Ladd, E. N.          | Tax Assessor                                         | Eureka      |
| Muir, Donald         | Attorney                                             | Anthony     |
| Mulholland, A. R.    | Tax Agent, Santa Fe R. R.                            | Topeka      |
| McConnell, W. W.     | Education—Survey of Schools                          | Winfield    |
| Nelson, M. E.        | Southern Bell Telephone Co.                          | Topeka      |
| Pleasant, Walter     | Chrmn., State Tax Commission                         | Topeka      |
| Randall, C. B.       | Attorney, State Tax Commission                       | Topeka      |
| Robinson, Geo. L.    |                                                      | Paola       |
| Smith, Clarence      | State Tax Commissioner                               | Topeka      |
| Smith, Mrs. Clarence | 1533 McVickers Ave.                                  | Topeka      |
| Teviotdale, L. D.    | Asso. Prof. Econ., Univ. Kans.                       | Lawrence    |
| Trickett, L. G.      | Sec'y & Treas., K. C. Stock Yds.,<br>710 N. 17th St. | Kansas City |
| Wilkins, L. G.       | Sec'y, State Tax Commission                          | Winfield    |

## KENTUCKY

|                        |                        |           |
|------------------------|------------------------|-----------|
| Martin, Prof. James W. | University of Kentucky | Lexington |
|------------------------|------------------------|-----------|

## LOUISIANA

|                      |                                                    |             |
|----------------------|----------------------------------------------------|-------------|
| Raggio, F. Warren    | State Tax Commissioner                             | DeRidder    |
| Stone, Mrs. Florence | Lumber Trade Association,<br>Care of Southern Pine | New Orleans |

## MAINE

|                    |                               |         |
|--------------------|-------------------------------|---------|
| Sterling, Frank H. | Chrmn., State Board Assessors | Augusta |
|--------------------|-------------------------------|---------|

## MARYLAND

|                        |                                                 |           |
|------------------------|-------------------------------------------------|-----------|
| Griffith, Frederick J. | Tax Agent, B. & O. R. R. Co.                    | Baltimore |
| Leser, Oscar           | State Tax Commissioner                          | Baltimore |
| McCardell, A. LeRoy    | State Tax Commissioner,<br>301 Rockwell Terrace | Frederick |

## MASSACHUSETTS

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|--------------------|----------------------------------------------|--------|
| Brown, O. R.       | Insurance, 20 Cutter St.                     | Boston |
| Burgess, Arthur I. | 1364 Hancock St.                             | Quincy |
| Cain, Jos. L.      | Attorney, 20 Hughes St.                      | Boston |
| Keil, Geo. A.      | 140 Federal St.                              | Boston |
| Killian, Grace E.  | Banking and Brokerage,<br>115 Devonshire St. | Boston |
| Locke, John W.     | 15 State St.                                 | Boston |

|                 |                          |        |
|-----------------|--------------------------|--------|
| Long, Henry F.  | Com. of Corp. & Taxation | Boston |
| Nichols, Philip | 20 Kilby St.             | Boston |
| Stacey, S. L.   | 73 Walter St.            | Boston |

## MICHIGAN

|                     |                                                |           |
|---------------------|------------------------------------------------|-----------|
| Boice, J. A.        | Attorney, 1000 Prudden Bldg.                   | Lansing   |
| Boice, Mrs. J. A.   |                                                | Lausing   |
| Burtless, B. F.     | 331 N. Sycamore St.                            | Lansing   |
| Crane, F. S.        | Burroughs Adding Machine Co.                   | Detroit   |
| Little, Lucy E.     | City Assessor                                  | Kalamazoo |
| Lord, George        | 1914 Dime Bank Bldg.                           | Detroit   |
| Newton, R. Wayne    | Michigan State Farm Bureau                     | Lansing   |
| Rightor, C. E.      | 51 Warren Ave. West                            | Detroit   |
| Saunders, Edwin F.  | Chrmn., State Tax Commission                   | Detroit   |
| Whitcomb, Arthur C. | County Tax Commissioner,<br>2733 Pasadena Ave. | Detroit   |

## MINNESOTA

|                          |                                            |              |
|--------------------------|--------------------------------------------|--------------|
| Armson, J. G.            | State Tax Commissioner                     | St. Paul     |
| Bjornson, G. B.          | State Tax Commissioner                     | St. Paul     |
| Blakey, Roy G.           | Prof. Economics, U. of Minn.               | Minneapolis  |
| Dahle, O. K.             | Legislator                                 | Spring Grove |
| Fellows, F. P.           | Sec'y, Chamber of Commerce                 | St. Paul     |
| Fitzpatrick, T. C.       | Lawyer, Oppenheim Bldg.                    | St. Paul     |
| Gould, Edward S.         | 500 Delaware St., S. E.                    | Minneapolis  |
| Gould, Mrs. Edward S.    |                                            | Minneapolis  |
| Kjorlaug, Hon. M. U. S.  | Chrmn., Board of Equalization              | Minneapolis  |
| Montague, W. K.          | Assistant Attorney General                 | St. Paul     |
| Mueller, Wm.             | C. St. P. M. & O. Ry.                      | St. Paul     |
| McNiven, J. H.           | State Tax Commissioner                     | St. Paul     |
| Neuman, Otto             | Land Broker                                | Wheaton      |
| Ries, Hon. George J.     | County Auditor                             | St. Paul     |
| Ryan, Patrick J.         | 942 Minnesota Bldg.                        | St. Paul     |
| Schoettler, W. L.        | Tax Com. Great Northern R. R.              | St. Paul     |
| Simonds, Etta W.         | Sec'y, Minn. Bank Tax Com.                 | St. Paul     |
| Sullivan, Hon. George H. | Attorney                                   | Stillwater   |
| Thomson, H. A.           | Tax Agent, Soo Line,<br>4915 38th Ave., S. | Minneapolis  |
| Thomson, Mrs. H. A.      | 4915 38th Ave., S.                         | Minneapolis  |
| Walquist, Hon. John      | City Assessor, 235 Court House             | Minneapolis  |

## MISSOURI

|                    |                                                |             |
|--------------------|------------------------------------------------|-------------|
| Abele, C. E.       | 513 R. A. Long Bldg.                           | Kansas City |
| Abele, Mrs. C. E.  | 4932 Troostwood Road                           | Kansas City |
| Armstrong, E. G.   | Controller's Department,<br>Commerce Trust Co. | Kansas City |
| Atkins, Carter W.  | 702 Fullerton Bldg.                            | St. Louis   |
| Baird, L. E.       | Waldheim Bldg.                                 | Kansas City |
| Baird, W. E.       | C. P. A., 712 Scarritt Bldg.                   | Kansas City |
| Black, John A.     | 600 Keith & Perry Bldg.                        | Kansas City |
| Branham, Robert T. | Sinclair Refining Co.,<br>4039 Charlotte St.   | Kansas City |
| Brown, R. W.       | President, Mo. Farm Bureau                     | Carrollton  |
| Cady, Theodore S.  | Sec'y, Fidelity Natl. Bank &<br>Trust Co.      | Kansas City |

|                         |                                |                |
|-------------------------|--------------------------------|----------------|
| Cady, Mrs. Theodore S.  | 34 West 58th Ter.              | Kansas City    |
| Cannon, Frances M.      | Care of State Auditor          | Jefferson City |
| Carrington, R. W.       | 8118 Independence Ave.         | Kansas City    |
| Cast, W. B.             | 302 W. 66th St.                | Kansas City    |
| Cast, Mrs. W. B.        |                                | Kansas City    |
| Conaway, W. A.          | 522 Cottonbelt Bldg.           | St. Louis      |
| Cooke, Thornton S.      | Columbia National Bank         | Kansas City    |
| Cooke, Mrs. Thornton S. |                                | Kansas City    |
| Correll, W. L.          | 732 Court House                | Kansas City    |
| Dale, C. C.             | 621 Pioneer Trust Bldg.        | Kansas City    |
| Dale, C. D.             | Att'y, 621 Pioneer Trust Bldg. | Kansas City    |
| Donnell, Elmer          | 2004 R. R. Exchange Bldg.      | St. Louis      |
| Fair, Eugene            | Pres., State Teacher's College | Kirksville     |
| Flaugh, C. L.           | Realtor, 204 Victor Bldg.      | Kansas City    |
| Friganza, W. T.         | Southern Bell Tel. Co. Bldg.   | St. Louis      |
| Fulkerson, Frank B.     | Farm Bureau                    | Higginsville   |
| Gehner, Fred            | Assessor, 117 City Hall        | St. Louis      |
| Godt, W. J.             | State Tax Commission           | Jefferson City |
| Gorell, Juan            | 24 E. Linwood Blvd.            | Kansas City    |
| Grant, Frank R.         | 310 Ward Parkway               | Kansas City    |
| Gross, J. Ryan          | 2423 Gothland Ave.             | St. Louis      |
| Hagee, Geo. M.          | Att'y, 1810 Boatman Bank Bldg. | St. Louis      |
| Hay, W. W.              | County Assessor                | Liberty        |
| Herbert, S. A.          | Oil—Shell Bldg.                | St. Louis      |
| Hering, Richard L.      | Att'y, So. West. Bell Tel. Co. | Kansas City    |
| Hesterlee, Arthur       | County Assessor                | Ozark          |
| Hill, A. Ross           | 618 Pioneer Trust Bldg.        | Kansas City    |
| Hoover, Harrison        | State Auditor                  | Jefferson City |
| Hosie, L. V.            | 3217 Olive St.                 | Kansas City    |
| Hunter, Stephen B.      | Farmer                         | Cape Girardeau |
| Hunter, Mrs. Stephen B. |                                | Cape Girardeau |
| Jaccard, Walter M.      | Jeweler, 1017 Walnut St.       | Kansas City    |
| Jackson, George P.      | C. P. A., 1104 Commerce Bldg.  | Kansas City    |
| Jenkins, W. D.          | 1203 Commerce Bldg.            | Kansas City    |
| Kelley, C. C.           | Income Tax Agent, St. Cap.     | Jefferson City |
| Kessel, Paul            | 921 Main St.                   | Kansas City    |
| Keyes, H. C.            | Assessor                       | Richmond       |
| Kube, Herman H.         | Assessor, 2636 Prospect Ave.   | Kansas City    |
| Lee, Charles A.         | State Supt. Schools            | Jefferson City |
| Lee, Jay M.             | Attorney, 300 Elmhurst Bldg.   | Kansas City    |
| Lee, Mrs. Jay M.        | 3701 Madison St.               | Kansas City    |
| Loeb, Isidor            | Professor Political Science,   |                |
|                         | Washington University          | St. Louis      |
| Martin, R. E.           | Att'y, 1501 Commerce Bldg.     | Kansas City    |
| Matscheck, Walter       | Government Research,           |                |
|                         | 1012 Baltimore Ave.            | Kansas City    |
| McComas, James A.       | Assessor                       | Platte City    |
| Mitchell, Jesse A.      | Member, State Tax Commission   | Jefferson City |
| Moore, C. L.            | 8083 Midland Blvd.             | St. Louis      |
| Morse, A. R.            | State Auditor's Office         | Jefferson City |
| Morse, Mrs. A. R.       |                                | Jefferson City |
| Mumbrauer, Chas.        | State Capitol                  | Jefferson City |
| Naylor, J. C.           | 1401 Arcade Bldg.              | St. Louis      |
| Oliver, Stanley C.      | Prof. Rural Education,         |                |
|                         | State Teachers College         | Springfield    |
| Owen, T. C.             | Attorney                       | Warrenburg     |

|                     |                                             |                |
|---------------------|---------------------------------------------|----------------|
| Phelps, E.          | K. C. S. R. R. Co.                          | Kansas City    |
| Porter, Pierre R.   | 303 Elmhurst Bldg.                          | Kansas City    |
| Reed, T. S.         | Tax Com. Mo. Pac. R. R.,<br>1610 Pac. Bldg. | St. Louis      |
| Reuther, J. L.      | 1010 Pine St.                               | St. Louis      |
| Roach, Cornelius    | Banking, 15 W. 10th St.                     | Kansas City    |
| Roberts, E. E.      | County Assessor                             | Lancaster      |
| Sandler, E. A.      | 909 Baltimore                               | Kansas City    |
| Schubler, E. G.     | Controller's Office, 216 City Hall          | St. Louis      |
| Sevier, William     | 1400 Federal Reserve Bldg.                  | Kansas City    |
| Smith, Forrest      | Member, State Tax Commission                | Jefferson City |
| Teal, J. C.         | White Eagle Oil Co.                         | Kansas City    |
| Thompson, L. D.     | State Auditor                               | Jefferson City |
| Taylor, J. J., Jr.  | Tax. Com. K. C. S. R. R. Co.                | Kansas City    |
| Waddill, J. T.      | Chrmn., State Tax Commission                | Jefferson City |
| Wahl, Harry B.      | 4428A Swan Ave.                             | St. Louis      |
| Wakefield, V.       | City Ice Co.                                | Kansas City    |
| Wampler, J. Alva    | Assessor                                    | Farmington     |
| Wampler, Prentice   |                                             | Farmington     |
| Wattenbarger, N. J. | State Capitol                               | Jefferson City |
| Wendt, Ed. A.       | Assessor                                    | Lexington      |
| Whissell, Geo. B.   | 2305 Tel. Bldg.                             | St. Louis      |
| Whitehead, C. W.    | City Assessor, City Hall                    | Kansas City    |
| Whitney, A. H.      | State Auditor's Office                      | Jefferson City |
| Wright, Otis W.     | Rev. Clerk, St. Auditor's Office            | Jefferson City |
| Young, L. B.        | Income Tax Agent, St. Cap.                  | Jefferson City |

## MISSISSIPPI

|                   |                     |            |
|-------------------|---------------------|------------|
| Gamble, Mrs. Paul | Research Commission | Greenville |
|-------------------|---------------------|------------|

## MONTANA

|                   |                              |        |
|-------------------|------------------------------|--------|
| Greene, John J.   | Member, St. Bd. Equalization | Helena |
| Stewart, James H. | State Tax Commissioner       | Helena |

## NEBRASKA

|                        |                                        |         |
|------------------------|----------------------------------------|---------|
| Brown, J. A.           | U. P. Tax Dept.                        | Omaha   |
| Buckingham, W. H.      | Attorney, 317 Tel. Bldg.               | Omaha   |
| Buckingham, Mrs. W. H. |                                        | Omaha   |
| Pollard, F. S.         | C. B. Q. R. R. Co.,<br>1004 Farnam St. | Omaha   |
| Scott, Harry W.        | State Tax Commissioner                 | Lincoln |
| Scribner, Arthur H.    | Tax Com. U. Pac. Ry. Co.               | Omaha   |

## NEW HAMPSHIRE

|                  |                               |         |
|------------------|-------------------------------|---------|
| Marston, John G. | Income Tax Dept., State House | Concord |
|------------------|-------------------------------|---------|

## NEW JERSEY

|                     |                                       |           |
|---------------------|---------------------------------------|-----------|
| Brewster, Samuel L. | Tax Assessor                          | Montclair |
| Howe, John          | Director of Finance                   | Newark    |
| Kalisch, Harry      | Attorney, Lefcourt Bldg.              | Newark    |
| Keating, John J.    | 58 Elliott St.                        | Newark    |
| Macksey, William P. | City Hall                             | Newark    |
| Mungle, James A.    | Hall of Records                       | Newark    |
| Shoenthal, I.       | 140 So. Main St.                      | Orange    |
| Sweney, Leonard A.  | N. J. Bell Tel. Co.,<br>540 Broad St. | Newark    |

## NEW YORK

|                       |                                                    |               |
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| Atterbury, J. Francis | J. P. Morgan Co., 23 Wall St.                      | New York City |
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## NORTH CAROLINA

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## NORTH DAKOTA

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| Baker, L. A.      | Deputy Tax Commissioner | Bismarck |
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| Townsend, Mrs. Arthur P. |                                  | Langhorne    |
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## RHODE ISLAND

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| Toye, Charles B. | Chairman, Board of Assessors | Providence  |

## SOUTH CAROLINA

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| Crouch, Thomas     | Southern Bell Tel. Co.      | Columbia |
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| Query, Lois        | Sec'y, to Sec'y N. T. A.    | Wellford |
| Query, W. G.       | Chmn., S. C. Tax Commission | Columbia |
| Robinson, F. C.    | State Tax Commissioner      | Columbia |

## SOUTH DAKOTA

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| Baer, B. W.      | State Tax Commissioner                         | Pierre      |
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| Gabbard, L. P. |                        | College Station |
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| Morgan, J. P.  | Oil—1st Nat'l Bank     | Dallas          |

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| Kelley, Edward L.    | Chrmn., State Tax Commission               | Madison   |
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| Nichols, Mrs. R. R. |                            | Winnipeg |

## ONTARIO

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| White, John T. | Controller of Revenue       | Toronto |

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|---------------|------------------------------|----------|

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